

The Report of the Bognor Regis Inquiry

*Presented to the Minister of Housing and
Local Government and the Chairman
and Members of the Bognor Regis
Urban District Council by
Mr. J. Ramsay Willis, Q.C.*

LONDON

HER MAJESTY'S STATIONERY OFFICE

1965

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The Right Honourable R. H. S. Crossman, O.B.E., M.P.,
Minister of Housing and Local Government.

The Chairman and Councillors of the Bognor Regis Urban District Council.

INTRODUCTION

1. I was appointed jointly by the Minister of Housing and Local Government and the Bognor Regis Urban District Council on July 23rd 1965 to hold an Inquiry with the following terms of reference:

“To examine the circumstances leading up to the termination of the appointment of Mr. Paul Smith as Clerk of the Council; to review the conduct of the Council's affairs in this matter; and to report, commenting on any matter disclosed in the course of the inquiry which seems to him to require consideration in the interests of good local government”.

The Council had resolved that the inquiry should be held in private and that the report should be published.

2. Following the announcement of my appointment notification was given in the Press that any person who thought that he or she might be able to assist me by giving evidence should communicate with me and indicate shortly the nature of his information. Those whose letters plainly indicated that they were unable to assist me I did not invite to attend, but any doubt was resolved in favour of asking the writer to give evidence. I also invited the attendance of a number of witnesses who had not written to me but whose evidence appeared to me to be material during the course of the inquiry.

3. The Inquiry opened in a private room at 15, The Arcade, Bognor Regis, on Monday, 16th August 1965, and I at once started to hear witnesses.

4. All witnesses appeared before me individually except Mr. Paul Smith, who at his request was on his first appearance (but not on his recall) represented by counsel, Mr. Michael Havers, Q.C. Having regard to the long and detailed nature of Mr. Smith's evidence, which took up twelve of the sixty-six hours occupied in hearing witnesses, the fact that he was represented was of great assistance. (In addition Mr. Smith gave me the very full “proof” of his evidence to read after the hearing.)

5. I was able to conclude the hearing of the inquiry at Bognor on Thursday, August 26th; it had lasted ten days, during which fifty-seven witnesses appeared before me. In addition to Mr. Smith, these included all the Councillors, six ex-councillors, six council officials and twenty-one members of the public at their own request. I have also heard evidence or received information from the Police, a journalist, the office of the Director of Public Prosecutions, the District Auditor's Office, the Ministry of Housing and Local Government, the Society of Clerks to Urban District Councils and Dr. Snow, the Vicar of Bognor Regis. Nine witnesses were recalled to give further evidence.

6. I would like to express my gratitude to Mr. Edward Osmotherly, of the Ministry of Housing and Local Government, who arranged the timetable of the inquiry with such skill that rarely was a witness kept waiting or failed to appear on time, and whose personal assistance to me has been of the greatest value, and also to the team of shorthand writers who ungrudgingly worked very long hours to provide me with a virtually daily transcript.

7. My report is divided into two parts. Part I concerns my examination of "the events leading up to the termination of the appointment of Mr. Paul Smith as Clerk of the Council" and a "review of the conduct of the Council's affairs in this matter". Part II contains my conclusions and comments on the events described in Part I and matters disclosed in the course of the inquiry which may be thought to require consideration in the interests of good local government.

8. The limitations of the type of inquiry which I was appointed to hold have already been pointed out by Lord Denning in his report relating to Mr. Profumo. In a vastly different context my task, like his, was to be "detective, inquisitor, advocate and judge" and with experience limited to one part only of this quadripartite role I have not found the task easy. I hope, nevertheless, that witnesses have felt it to be an advantage that they have been able to say what they have wanted in confidence. The affairs of Bognor Regis have received more than their fair share of publicity during the last six months, and public attitudes have been assumed, many of them severely critical of the Council. While, therefore, it is to be hoped that the people of Bognor generally will feel that an impartial inquiry following upon Mr. Smith's dismissal is the best way of clearing the air and enabling a more balanced view of their recent history to be obtained, I have been left in no doubt that there are those who would regard an inquiry which did not reach conclusions compatible with their views as having little value.

9. Perhaps it is also worth recording that Mr. Smith, shortly after the conclusion of the inquiry, expressed the view to a reporter of "The Observer" that the Inquiry was "loaded and biased". He went on to suggest that, "as complainant" he should have been called first, that the venue—a hock of offices in an arcade in the centre of the town—deterred some people from giving evidence, because they were afraid of being seen as they waited in full public view in a corridor before being called, and also that "some people had been worried about giving evidence because an officer from the Ministry sat in on the inquiry".

10. Since these are, *prima facie*, serious criticisms of the inquiry I think it right that I should state the facts of these matters.

11. Mr. Smith was neither complainant nor defendant; he was a witness, albeit an important one, in a fact-finding inquiry, and, as with all witnesses, I tried to meet his convenience. Since he told me that it would not be convenient for him to appear before August 19th I arranged to hear him on that and the following day.

12. The venue was an obscure office at the top of two flights of stairs; the room was remote from the public gaze and was chosen in order to meet an objection from the Bognor Regis Civic Association, which had been prominent

in calling for an Inquiry, to the original proposal that the inquiry should be held in the Town Hall.

13. The greater part of Mr. Osmotherly's time was spent outside the room in which I heard evidence, making arrangements on the telephone and otherwise for the attendance of witnesses and other necessary matters. During the hearing of certain evidence, particularly when there were likely to be documents to be referred to, he came in to assist me. Throughout the inquiry he was acting as my assistant and not as a representative of the Ministry of Housing and Local Government.

14. I think it in the highest degree unlikely that any potential witness who had any material evidence to offer was deterred from doing so on either of the grounds suggested by Mr. Smith.

CHAPTER 1—THE BACKGROUND TO THE EVENTS AT BOGNOR REGIS

15. Before Mr. Smith was appointed there were several matters with which the Bognor Regis Council were involved which had been the subject of criticism by such bodies as the Ratepayers' Association, the Press and sections of the public. There were also, inevitably, disgruntled individuals who had grievances connected with such matters as the payment of rates or the Council's planning activities and their execution of certain works schemes. It is not necessary to refer to this type of grievance, which was of great importance to the individual but unimportant in the general scene, except to say that a certain amount of the evidence I heard from private individuals related to such matters.

16. The major issues which were of public concern were:

- (a) The sea defence compulsory purchase orders in connection with the works schemes at Felpham and Aldwick Bay.
- (b) Butlins Camp and Sea Front Activities.
- (c) Sea Front Redevelopment.
- (d) The Sea Outfall of the Main Drainage Scheme.

(a) *Sea Defence Schemes*

17. There was an undoubted feeling in the town that the Council were acting in a high-handed manner and had not made sufficient attempts to negotiate with the owners of the properties concerned, who, as a result, were forced to object strongly to the Council's proposals.

(b) *Butlins*

18. There were those who felt that the scale of Butlin's operations was greatly in excess of that which the public had been led to expect when the proposals were first ventilated. I was told that the type of development which had taken place at the camp differed from that which had been anticipated; accommodation had been provided for many more people than had been expected. The additional camp population would seem to have been housed on an area which in the original plan was to be kept as an open space.

19. It had been hoped that Butlin's sea front amusement activities would cease when the camp came into existence. There were also vague suggestions that the terms of the lease finally negotiated with Butlin's in 1959 were unduly favourable to Butlin's.

(c) *Sea Front Redevelopment*

20. The front at Bognor is a depressing spectacle. For some years there have been plans for its redevelopment. While undoubtedly the Council and the County Council have been discussing redevelopment and, with the advice of the Ministry of Housing and Local Government, an area of some 10·8 acres is scheduled for redevelopment, nothing has happened so far as the public has been able to see. The Council has been gradually buying up properties in the redevelopment area and inevitably this has meant that those which become vacant were difficult to let. Members of the public felt that events were moving too slowly and that more of the empty properties should be let.

(d) *The Sea Outfall*

21. For some time a new system of main drainage for the town has been needed. A firm of well-known consultants, Messrs. D. Balfour, were consulted by the Council about the form which a new system should take. The consultants advised in favour of a scheme which involved the construction of a pumping station on the West Car Park and a Sea Outfall. The Council were—and still are—divided on whether there should be a sea outfall or an inland disposal works, but there has always been a majority, albeit a small one, in favour of the former. Both the Council's Medical Officer of Health, Dr. Warren Browne, and the County Council were and are in favour of an inland disposal scheme. The Council, however, have remained in favour of the sea outfall in accordance with their consultants' advice.

22. These four "bones of contention" were matters of which Mr. Smith was made aware before taking up his appointment and I think the challenge they presented to his administrative skill appealed to him.

CHAPTER 2—THE MAN FOR THE JOB

(a) *Appointment*

23. Mr. Smith's predecessor was Mr. R. J. Hill, a respected and well liked Clerk who had served the Council for many years. For a year or so before his retirement, however, his health had been failing and with the imminence of public inquiries into a number of important projects likely to involve him and his department in a great deal of difficult and detailed work, he decided in 1964 to take his doctor's advice and retire. The Council, for their part, although sorry to part with Mr. Hill who had worked harmoniously with successive Councils, also took the view that the time had come when a younger and more vigorous man was needed. The Clerk's salary was increased, the job was thoroughly advertised and attracted some sixty applicants who were reduced to a short list of four. The Selection Committee was equally divided between the last two candidates and on 25th March 1964, Mr. Smith was selected by the casting vote of the then Chairman of the Council, Councillor Thomas Boothman, who is now the Council's Vice-Chairman.

24. The Council were keen to get their sea-front redevelopment scheme moving as soon as possible and one of the factors which told in Mr. Smith's favour was the experience of central area redevelopment he had gained in his last post at Redditch. Mr. Smith was forty at this time; he had been in the local government service since 1953 and for the six years before he came to Bognor he had been first Deputy Clerk and then Clerk of the Redditch Urban District Council. He has also spent a brief period in private practice and three years as a prosecuting solicitor to the Ministry of Pensions and National Insurance and the National Assistance Board.

25. When Mr. Smith came to Bognor to take up the post of Clerk he was given a warm welcome; during the early days of his appointment, which he assumed on 1st July 1964, there was undoubtedly a general feeling among the Councillors that they had got the type of man they needed, a clerk with a modern approach to the town's problems and the experience and energy

to guide them to a more rapid realization of the development of the sea front and towards the solution of other urgent problems.

(b) *The Council*

26. The Council at the time of the inquiry was, with one exception, composed of the same Councillors who were in office during Mr. Smith's time as Clerk. Mr. Rose did not seek to be returned to the Council at the elections held in May 1965; his place on the Council has been taken by Mr. D. G. Larcombe. Listed below are the names, political affiliations, and occupations of those who were Councillors while Mr. Smith was Clerk. I have also set out a list of Council Committees and their Membership.

27. MEMBERS OF THE BOGNOR REGIS URBAN DISTRICT COUNCIL 1964-1965

Name	Occupation	Political Affiliation
Mr. A. G. I. Anderson	Retired Gas Engineer	Conservative
Mr. T. Boothman	Lessee and Licensee of the Rex Ballroom, Bognor Regis	Conservative
Mr. S. W. Britton	Retired	Conservative
Mr. E. G. R. Fisk	Company Director at Sunbury-on-Thames	Conservative
Mr. H. D. Goldsmith	Garage Proprietor	Conservative
Mr. D. W. Hansford	Outfitter	Conservative
Mr. D. J. Hill-Willis	Bus Driver	Labour
Brigadier H. E. Horsfield (Chairman of the Council)	Retired Soldier	Independent
Mr. J. R. Kingsbury	Schoolmaster	Liberal
Mrs. D. M. Locke	—	Independent
Mrs. F. D. Moore	—	Liberal
Mr. H. Parfremment	Butcher	Independent
Mr. F. E. Phillips	Railway Employee	Labour
Mr. A. A. Reynolds	Outfitter	Conservative
Mr. B. Rose	Editor, "Justice of the Peace" ...	Conservative
Mr. F. W. Shearing	Grocer	Conservative
Mr. J. Vincent	Ice Cream Retailer	Conservative
Mr. C. H. Youngman	Caravan Park Manager	Conservative

28. BOGNOR REGIS COUNCIL—COMMITTEES 1964-1965

Committee	Membership	Chairman and Vice-Chairman
Development	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Anderson " Britton " Fisk " Hansford " Phillips " Vincent	Councillor Vincent " Hansford
Entertainments and Publicity	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Goldsmith " Hansford " Kingsbury " Moore (Mrs.) " Shearing " Youngman	Councillor Shearing " Moore (Mrs.)

Committee	Membership	Chairman and Vice-Chairman
Finance and Rating (consists of Chairman, appointed by the Special Purposes Committee, and representatives of the 6 spending committees)	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Britton " Fisk " Parfremment " Phillips " Shearing " Phillips	Councillor Boothman " Vincent
Highways and Foreshore ...	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Fisk " Hill-Willis " Locke (Mrs.) " Moore (Mrs.) " Rose " Shearing	Councillor Rose " Fisk
Housing	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Goldsmith " Hansford " Reynolds " Kingsbury " Parfremment " Phillips	Councillor Parfremment " Phillips
Parks and Allotments ...	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Locke (Mrs.) " Parfremment " Phillips " Reynolds " Rose " Youngman	Councillor Phillips " Locke (Mrs.)
Plans	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Anderson " Britton " Hansford " Hill-Willis " Vincent " Youngman	Councillor Anderson " Hansford
Public Health	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Anderson " Britton " Fisk " Moore, (Mrs.) " Reynolds " Vincent	Councillor Britton " Reynolds
Selection	Councillor Horsfield (<i>ex-officio</i>) " Boothman (<i>ex-officio</i>) " Britton " Fisk " Locke, (Mrs.) " Moore, (Mrs.) " Phillips	Councillor (Mrs.) Locke " (Mrs.) Moore
Special Purposes	All members of the Council ...	Councillor Brig. Horsfield " Boothman

Committee	Membership	Chairman and Vice-Chairman
Joint Staff, 4 Councillors and 4 Staff Representatives	Councillor Boothman " Britton " Fisk " Vincent Messrs. Allatt Leakey Perryman Simpson	
Joint Works, 5 Councillors and 5 Manual Workers	Councillor Fisk " Locke, (Mrs.) " Moore, (Mrs.) " Rose " Shearing Five Manual Workers	

CHAPTER 3—IMPORTANT EVENTS OF THE EARLY DAYS

(a) *The Felpham Sea Defences Scheme—The Judgment of Lord Justice Salmon*

29. Before Mr. Smith came to Bognor, the Council had decided to undertake a programme of sea defence works at Felpham. They made a compulsory purchase order on the land on which they wished to build defences and submitted the Order to the Minister of Housing and Local Government for his consideration. One of the Minister's Inspectors was appointed to hold a Local Inquiry into the Order and the objections to it: in his Report he recommended that the Order be rejected. The Minister did not accept his Inspector's recommendation and confirmed the Order.

30. Those who had objected to the Order at the Public Local Inquiry appealed to the Courts against the Minister's decision. The case was heard by Lord Justice Salmon who quashed the Order. His judgment which was given shortly after Mr. Smith took up his post as Clerk, was severely critical of the Bognor Regis Council and included what amounted to a finding of bad faith on their part.

31. A number of Councillors were very concerned about the effect on the Council's reputation of the judgment and in particular the effect of the finding of bad faith which they felt was unwarranted on the full facts of the case. They considered that they should deal with the matter urgently and wanted the Clerk, Mr. Smith, to advise them on whether to appeal against the judgment and on the advisability of issuing a public statement.

32. The Clerk thus inherited a problem in the making of which he had had no hand and naturally he needed some time to study the documents and come to a full understanding of the case.

33. A Council meeting was held to discuss the judgment: Mr. Smith attended but left before its conclusion to keep another appointment; he was not present when junior Counsel visited Bognor and advised the Council on the judgment. This may have given some Councillors the impression that the Clerk was not taking the matter sufficiently seriously. A few days after the meeting referred to above, Mr. Smith visited the Ministry of Housing and Local Government

to discuss the judgment and the advisability of appealing against it. That evening he was telephoned at his hotel in London and Councillor Rose spoke to him. Mr. Rose said that Mr. Smith was taking too detached a view of the situation. The Clerk strongly objected to this suggestion and a somewhat heated conversation took place until Councillor Vincent—who was with Councillor Rose in Bognor and had heard what the latter had said—took the telephone from Mr. Rose and attempted to mollify Mr. Smith. This trifling interchange between the Clerk and Mr. Rose may have had unfortunate repercussions.

34. Mr. Smith seems to have been so annoyed by what was said to him on the telephone that on the train going back to Bognor from London he composed the notes of an address to the Council. Mr. Smith showed me these notes: in them (inter alia) he strongly criticised the administration he found at the Town Hall, reminded the Council of the volume of work he was doing on their behalf, upbraided them for "biting the hand that fed them" in criticising his handling of the question of the appeal, and asked them to tell him, if they lacked faith in him, before he moved his family from Redditch to Bognor. When he delivered the address, in addition to making these points, he added (in a reference to the terms of the judgment) that the Council should remember that those who come to equity should "come with clean hands".

35. The terms of this address certainly left the Council in no doubt that their new Clerk was very different from his predecessor. However, they were in a somewhat chastened mood already and took no offence: they were ready to let the new broom sweep in its own way.

36. When Mr. Smith, in my presence, re-read the notes of his address to the Council he told me that he was surprised at the tone he had adopted.

37. The remaining details of the sea defence dispute can be summarised as follows. Mr. Smith considered—and told the Council—that an appeal would delay essential works and should not be undertaken merely to clear the Council's good name. Subsequently, leading Counsel's opinion was sought and he advised the Council to appeal against Lord Justice Salmon's judgment. Although I think the Clerk retained his private reservations on the advisability of such an appeal, he did not advise the Council to reject Counsel's opinion. The Council duly appealed and their case was heard in February 1965 when, by a majority, the Court of Appeal dismissed the appeal. It is right to add that the Court as a whole felt that the charge of bad faith was not justified.

(b) The Ice Cream Concession

38. The story of this concession begins long before July 1964, continues throughout the term of Mr. Smith's appointment and its echoes are heard on 1st July when the affairs of Bognor were discussed during the "Gallery" programme on B.B.C. Television. In my view, the matter has assumed an importance out of all proportion to the facts, which are as follows.

39. In 1952 the Council were anxious to find a concessionaire who would sell ice cream of high quality in hygienic conditions on the sea-front. Their requirements involved the provision and operation of the necessary kiosks

and equipments. The concessionaire was to have the monopoly of ice cream sales on the sea-front and in return was to pay the Council a percentage of the takings.

40. Five firms were approached, four of which were based in London—namely, Lyons, Walls, Neilsons and Eldorado—and one local firm, Chichester Dairies. Of these only the local firm was prepared to comply fully with the Council's requirements; the four London firms were interested only in the provision of ice cream. The concession was, therefore, negotiated with Chichester Dairies and they have had it ever since.

41. Also in 1952, Chichester Dairies entered into an agreement with a firm called Anderson and Dicker which was to operate the kiosks, which would be stocked with Chichester Dairies' ice cream, on the condition that they should not compete for the concession against Chichester Dairies. The agreement was made subject to three months' notice on either side and is still in force.

42. The negotiation of that agreement and the concession was mainly due to the enterprise of a Mr. Vincent, then the Area Manager of Chichester Dairies. He also put up the money to finance the kiosks which were to be operated by Anderson and Dicker and both he and his wife became Directors of that firm. Later, he and his wife began a fancy goods shop called "Odette". After he had bought out Anderson and later Dicker, the firm operating the ice cream kiosks was renamed Odette Limited.

43. In 1957, after twenty-five years in their service, Mr. Vincent resigned from Chichester Dairies in order to devote himself to his private business interests. In 1959 he stood for and was elected to the Bognor Regis Council.

44. Between 1952 and 1964 the contract between the concessionaire, Chichester Dairies and the Council was renewed by negotiation with the Council's Treasurer. The Council's policy with regard to this concession, as with all other sea-front licences, was that it should not be put to tender. The Assistant District Auditor has told me that it is at least possible that, bearing in mind the stringency of the Council's requirements and the comparative lack of interest of top quality ice cream firms other than Chichester Dairies, the Council's revenues gained more over the years through negotiation than they might have done had the concession been put to tender.

45. Mr. Vincent was fully aware of the possible conflict between his interest as the retailer of ice cream under the agreement with Chichester Dairies and his position as a Councillor. He accordingly declared his interest in his first election address. Everything I have heard and read in the Council's Minutes leads me to the conclusion that Councillor Vincent has meticulously declared his interest and refrained from discussion and voting on all the occasions when he should have done so. Nevertheless, there was some ill-informed gossip that a Councillor held a Council concession which had never been put out to public tender. I can understand how members of the public came to make this mistake for Mr. Vincent was and is a Councillor and his company did and still does operate the ice cream kiosks on the sea-front. Certainly, in 1963, the District Auditor seems to have been under the impression that the ice cream concessionaire was Mr. Vincent and for that reason asked, during his audit, why the concession had not been put

out to tender. After he had discussed the matter with the Treasurer and the then Clerk, Mr. Hill, he seems to have been satisfied that the negotiation of the tender was satisfactory in the circumstances.

46. The Vice-Chairman of the Highways and Foreshore Committee for 1963-64 was Councillor Fisk. He was strongly of the opinion that the concession should be put out to tender but he was not present at the Committee meeting for that year at which it was decided to adhere to the Council's normal practice.

47. However, in 1964 he became the Chairman of the Highways and Foreshore Committee. He was still of the same opinion about the ice cream concession and was not on good terms with Councillor Vincent, though for what reason I am not clear. In any event, in the autumn of 1964 he discussed with the Clerk the question of putting the concession out to tender. It was, of course, a subject which it was quite proper for him, as Chairman of the appropriate Committee, to discuss with the Clerk.

48. The question of the concession was again raised when Mr. Smith saw the Assistant District Auditor in October 1964, and it was one of the matters which the latter discussed with the Treasurer during the annual audit.

49. The Treasurer by that time, October 1964, had already negotiated a figure which he thought satisfactory and neither he nor some members of the Highways and Foreshore Committee saw any reason for putting the concession to tender. They may well have taken the view, which was later expressed by Mr. Vincent, that a sudden reversal of their established practice might make those who did not know the full facts think that there had been something underhand about what had been done before.

50. The Clerk, however, took a different view and after his first discussion in October with the Assistant District Auditor, he wrote to Councillor Vincent on 15th October. The latter was very angry when he received this letter and was particularly indignant at what he took to be the implications of its third and fourth paragraphs. Mr. Vincent, therefore, went to see the Clerk to tell him the true facts about the Concession, which Mr. Smith had not ascertained before writing the letter. Mr. Vincent insisted that the Clerk put these facts before the District Auditor. After telling the latter what Mr. Vincent had said, Mr. Smith wrote to Mr. Vincent on 20th October. Mr. Smith's letters of 15th and 20th October and Mr. Vincent's letter of 18th October are reproduced below.

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,
Bognor Regis,

15th October 1964.

HV.2405

PRIVATE AND CONFIDENTIAL

Dear Councillor Vincent,

I have had a meeting with the Deputy District Auditor and he informed me that the District Auditor was rather concerned about the fact that the concessions for the Odette ice cream kiosks on the Promenade have not been put out to open tender.

The District Auditor thinks that although you have declared your interest and, of course, not taken part in any discussion on this matter, nevertheless it would be wiser for the Council and yourself to ensure that this concession is advertised publicly before in fact accepting an offer from the present company.

This is a little embarrassing for all of us as you know, but I think I know your own reaction will be that it is better to bring the matter right out in the open rather than to have people talking about it behind your back; particularly as, apparently, the District Auditor has himself commented on it before.

I would like to have your own impressions first, before I take further action on this report, but assuming that you are prepared to agree to the action suggested being taken, then it might be best to mention this to Councillor Boothman and raise it under "Any Other Business" at the Finance Committee and get the appropriate action taken. This could be done without too much discussion.

As I remember it, although I am writing after hours and without the benefit of having the appropriate Minutes in front of me, it was agreed at a previous meeting that the Treasurer would negotiate for a new price and that it would not be put out to open tender. This minute will accordingly have to be revoked.

Yours sincerely,

(Signed) PAUL SMITH,

Clerk of the Council.

Councillor J. Vincent,
Little Croft,
8 Den Avenue,
Bognor Regis.

Copy of a letter handed to Mr. Paul Smith on 18th October 1964, by Mr. J. Vincent.

Thank you for your letter of 15th inst., which surprised me since my Company is not the Concessionnaire to the Council and therefore such remarks should not have been addressed to me, especially since I never have, nor will be involved in decisions which the Council choose to make over policy in respect of a Concession in which I have an indirect interest.

I would also wish to express my concern, and indeed anger, that some of the remarks contained in your letter were dictated to a typist, other than your confidential secretary which I feel sure, upon reflection, you will appreciate could be damaging to my reputation.

At the earliest possible moment I wish to discuss this matter with you, Mr. Tailby and if necessary the District Auditor.

Y.S.

J.V.

P.S. It occurs to me that the reference HV.2405 in your letter may not indicate that another typist (other than Miss Garrett) was used, in which case I would naturally withdraw my assertion. However, the remarks referred to still remain as damaging in my view.

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,
Bognor Regis,
20th October 1964.

HV.2405

PRIVATE AND CONFIDENTIAL

Dear Councillor Vincent,

Further to my letter of 15th October, yours of the 18th and our subsequent conversation, I have been in touch with the District Auditor again and, in the light of the facts as they have now been put to him, he accepts that there is no need for this concession to be advertised publicly. He is quite content with the present arrangements for a negotiated figure to be agreed with the Treasurer, and he fully accepts the fact that the discretion of the Council has been properly used in agreeing to such course of action. He has noted that you yourself are not the concessionnaire, and that your interest is solely that of a sub-lessee.

In a nut-shell, he is prepared to back the assurance which I am most happy to give you, that your own integrity can in no way be affected by the Council's decision, freely given, not to advertise publicly this concession.

I think it is important, as I have said personally, that this should be properly recorded on this confidential District Audit File, so that you have for all time a complete answer to any question which could be raised by a person either ignorant of the facts—or deliberately malicious. I enclose a copy of this note for your personal information and I will, as you agreed, send a copy of this letter and note to Councillor Boothman and the Chairman of the Council.

Yours sincerely,

(Signed) PAUL SMITH,
Clerk of the Council.

Councillor J. Vincent,
Little Croft,
8 Den Avenue,
Bognor Regis.

51. But in November 1964, the concession was put out to public tender. The explanation for this is connected with Mr. Smith's conversation with Councillor Fisk on Armistice Sunday (see Chapter 4, Section (b)—The Armistice Day Cocktail Party).

(c) Letting of Vacant Properties on the Sea Front

52. Ever since the Council had decided that they wanted to redevelop an area of 10.8 acres on the sea front—and they had come to that decision some years before Mr. Smith became Clerk—they had been buying by agreement as many of the properties in that area as they could. Where possible, the Council then let the properties on a short lease to their former owners. But where that could not be arranged the Council were faced with a problem common to many local authorities attempting a scheme of redevelopment. They wanted to let the empty properties, which were in varying states of repair, for a period which was both sufficiently long to attract a lessee at a

reasonable rent and yet short enough so as not to prejudice the commencement of the redevelopment scheme when that became possible. Their difficulty was the greater because they were by no means sure when they would be able to begin redevelopment. Soon after his appointment, Mr. Smith formed the view that greater efforts should be made to let the empty properties owned by the Council. Accordingly, at a Development Committee meeting held in November 1964, he proposed that an Estates Manager be appointed to press ahead with finding tenants for these properties. The Treasurer, however, thought that the suggestion that insufficient efforts had been made to find tenants was unjustified.

53. From the verbatim note of that meeting it appears that in support of his proposal the Clerk said that the District Auditor had told him of his concern at the loss of revenue from the unlet properties. The Clerk also suggested that the Council were leaving themselves open to the possibility of surcharge. When this was questioned by some of the Councillors in the absence of a report to that effect from the District Auditor, Mr. Smith replied that the District Audit Service did not work in that way but, if they wished, the Committee could take the warning as coming from him, their Clerk.

54. The Assistant District Auditor has told me that, according to his note of his conversation with Mr. Smith, it was not he but Mr. Smith who raised the question of the Council's unlet properties. Whichever of them raised the matter, it seems likely that Mr. Smith's references during the Development Committee meeting to his conversation with the Assistant District Auditor were made to emphasise his anxiety that everything should be done to obtain revenue from the Council's properties.

55. I have been supplied with a list which gives details of the acquisition, state of repair and letting of each of the properties owned by the Council in the Sea Front Redevelopment Area. On the basis of that information I have formed the view that the problem of finding tenants on reasonable terms was by no means simple. For example, over a period of twelve months on as many as five occasions prospective tenants had been on the point of signing the lease for one of these properties, the Beach Hotel (which is now let), but each time the prospective tenant had cried off at the last moment.

(d) Changes in Administration

56. The new Clerk was a young, vigorous man with very different ideas about his role and the performance of his duties from those of his predecessor. Perhaps it is not a matter for surprise, therefore, that when Mr. Smith took up his appointment he found much in the administration of the Town Hall which was not to his liking and set about changing it. Nor is it surprising that every change was not met with universal approval by both the members and staff of the Council. But on the whole the impression I have gained is that the general attitude of the Councillors and officers was that Mr. Smith, as Chief Officer, should be allowed to conduct the administration in the way that seemed best to him.

57. Certainly he sent more papers to Councillors and while some of them felt that they were given too much to read, others thought that as a result they were being given more information and were kept more abreast of affairs than they had been previously.

58. I think it is necessary only to single out one innovation for particular mention since it concerned declarations of interest under section 76 of the Local Government Act 1933; as it will be seen in the later pages of this Report, many of the events leading up to this Inquiry are connected directly or indirectly with the operation of that section (section 76 is reproduced in full as an Appendix to this Report).

59. The innovation can be described as follows: before Council meetings the Clerk prepared a list of what he thought would be the declarations of interest that Councillors should make in respect of the various matters which were to be discussed at the meetings. The list was then handed to the Chairman of the Council for him to read out.

60. The Chairman and members of the Council objected to this proposal on the grounds that it was the responsibility of the individual Councillor to make sure that his interest was declared. They made their views known to the Clerk and the practice was discontinued.

CHAPTER 4—INDICATIONS OF DISCONTENT

61. Between October 1964, and 21st March 1965, the Chairman of the Council, Brigadier Horsfield, became increasingly aware that among his Councillors there were some who were not content with the administration of the Town Hall. Certain Chairmen of Committees complained to him that the Clerk was not giving them the attention at meetings which they felt they might properly expect and that some of his methods were not to their liking. He also began to hear rumours that some members of the staff were not happy, and during this period both the Assistant Solicitor and Deputy Clerk left the Council to take up appointments elsewhere. While I am satisfied that they had their own good reasons for resigning which were unconnected with the appointment of Mr. Smith as Clerk, it seems to me possible that their departure may have given the converse impression to some Councillors.

62. The Chairman believed that, for at least the first six months of his appointment, the Clerk should be given the fullest scope to do his job in the way and by the methods that seemed best to him. Therefore, he attempted to restrain criticisms of the Clerk which arose purely from unfamiliarity with the new approach. However, he did mention to the Clerk some of the criticisms he had heard but Mr. Smith appears not to have taken the Chairman's remarks seriously.

63. It seems clear that throughout this period there were a few Councillors who were becoming increasingly disenchanted with the Clerk. And it seems equally clear that it was not only the criticisms which I have already mentioned which were responsible for the change in their attitudes. Although it is not easy to decide exactly what the causes of their discontent were, there are certain matters which were described to me which may account for their feeling.

64. One of the remarks made to me by Mr. Havers (who represented Mr. Smith during his first appearance before me) was that:—

“The background to this case is a curious one, in the sense that when one looks now with hindsight one can see a number of steps taken by Mr. Smith, taken quite innocently of any intention to offend people, which may well . . . have created enmity or a feeling against him which was never intended”.

I have quoted this observation because it seems to me that it is a suggestion which should be borne in mind when considering the remaining sections of this Chapter.

(a) *The Clerk's Letters of 15th and 20th October to Councillor Vincent*
(This correspondence was discussed in detail in Chapter 3, section (b))

65. It will be remembered that Councillor Vincent reacted indignantly to the Clerk's letter of 15th October but after his conversations with Mr. Smith and the latter's letter of 20th October he considered that the incident was closed. But some of the other Councillors who had heard what had taken place between Mr. Vincent and the Clerk felt that if the latter had been concerned solely to protect the position of Councillor Vincent, he might have acted more tactfully. Indeed, Mr. Smith has told me that after he had heard the true facts about the ice cream concession from Mr. Vincent, he felt he had wronged him.

(h) *The Armistice Day Cocktail Party*

66. The Council had attended Church on the morning of Armistice Sunday. Afterwards, the Chairman gave a party for the Councillors in his room at the Town Hall. The Clerk accompanied the Councillors to church and then returned with them to the Town Hall and went to his room to attend to some work. Later, as he was leaving the Town Hall, Councillor Fisk shouted to him from the window of the Chairman's room that he wanted Mr. Smith to come up and have a drink with him. When Mr. Smith got to the Chairman's room Councillor Fisk, who was the only person still there, opened a conversation about Councillor Vincent who, he thought, should not become Chairman of the Council because of alleged irregularities in his operation of the ice cream kiosks.

67. The Clerk thought that Mr. Fisk was prejudiced against Mr. Vincent and, therefore, did not accept all that he was told. However, he was perturbed by what Mr. Fisk had said to the extent that he consulted the Council's files on the subject of the Ice Cream Concession; he found that in the past twelve years three letters from members of the public had been sent to the Council asking for the concession to be put out to public tender. Mr. Smith told me that he informed the District Auditor about these letters and that he had heard certain allegations about the operation of the ice cream kiosks, and that the District Auditor had said that, in the circumstances, the concession “must” be put out to public tender. The Clerk, therefore, decided to support Councillor Fisk in urging the Highways and Foreshore Committee to put the concession to tender.

68. The District Auditor has confirmed that Mr. Smith informed him about the allegations and the three letters. But he emphatically denies that he

said that the concession "must" be put to tender. However, the District Auditor remembers that during his conversations with the Clerk, he said that if the Council were worried about the concession they might solve their problem by putting the concession to public tender. No evidence has been put before me to show that any member of the Council, other than Councillor Fisk, was worried about the concession.

69. The tender was advertised and Chichester Dairies submitted a tender about £100 higher than that which had been negotiated with them earlier in the year, but several hundred pounds more than that of their nearest competitor: accordingly, the concession was again awarded to Chichester Dairies.

70. The apparent irregularities in Mr. Vincent's operation of the ice cream kiosks on the sea front were later reported to the police, investigated by them and found to be without substance.

71. I believe that Mr. Smith continued to harbour suspicions about Mr. Vincent which, as far as I am able to tell, are quite without foundation.

(c) "*Councillors are warned by Clerk*"

72. The quotation which heads this section was the headline of a paragraph which appeared in the *Bognor Regis Observer* of 18th December 1964. The paragraph contained the following statement:

"Speaking before the start of the monthly Council meeting, Mr. Smith said: 'It may be opportune to say that if any Councillors find that their interests are not declared by the Chairman moving the Minutes, or on the papers in front of them, will you kindly do so after the Chairman has moved the business? In any event refrain from discussing or voting on such items. It could just be that we have not got all your interests down'."

73. I have been told that although the Clerk spoke about section 76 at that meeting, what he in fact said was very different from what he was reported to have said in the press. The fact that the Clerk appeared to have issued this statement to the press in terms which could justify the caption "Councillors are warned by Clerk" was very much resented by certain Councillors who could see no good reason for such a statement to be made.

(d) *Complaints to the Director of Public Prosecutions*

74. On 10th November 1964, a letter was written to the Director of Public Prosecutions accusing four Councillors of acting and voting in furtherance of their own financial interests. Two of those named were Councillors Boothman and Vincent; it is unnecessary to name the other two. Since the letter began "We regret writing to you anonymously . . .", it is perhaps not surprising that the three purported signatories whom the police later succeeded in interviewing all denied any connection with the letter.

75. Councillor Boothman was the subject of another anonymous letter written on 21st November; and on 24th November "An Angry Ratepayer and Wife" wrote to the Director of Public Prosecutions accusing Councillors Boothman and Vincent and one of the other two Councillors mentioned in the first letter. These three letters bear the indicia of a campaign against

these Councillors but it has not been possible to discover its authorship or inspiration. On 8th December a Mr. Campion (of whom more hereafter) wrote to the Director of Public Prosecutions alleging infringements of section 76 by Councillors Boothman and Vincent and one of the other two Councillors named in the first anonymous letter.

76. On 2nd December the Director of Public Prosecutions wrote to Mr. Hill, the former Clerk (he was apparently not aware that a new Clerk had been appointed), enclosing copies of the three anonymous letters and asking for minutes and any relevant information to assist him in deciding if he should take any action. This letter was opened in the Council's General Office and its contents became generally known. The Deputy Clerk informed the Chairman and the Clerk of the contents of the letter.

77. The Chairman asked the Clerk if he knew anything about the matter and the latter replied that while he did not know any details, he was going to see the Director of Public Prosecutions. Either then or a little later the Chairman told the Clerk that since several people had learned of the contents of the Director's letter, he felt that he should inform the four Councillors concerned that allegations had been made against them. Mr. Smith replied that he thought the Councillors should not be told but the Chairman said that he could not accept that advice and spoke to the four members. The Chairman also asked if he might accompany the Clerk when he visited the Director of Public Prosecutions but Mr. Smith felt that it was better if he was unaccompanied and in the event he made the visit alone.

78. The Clerk first visited the Office of the Director of Public Prosecutions on 11th December—when Mr. Campion's letter was also before the Director—and paid a subsequent visit on 21st December. The latter visit had a curious sequel. I am assured by those to whom he spoke at the Office of the Director of Public Prosecutions that the Director had formed no view as to the action (if any) which should be taken and that further consideration had still to be given to the Minutes and declarations of interest which the Clerk had left with them. However, on 22nd December, the Clerk telephoned all four of the Councillors who had been accused, told them that he had seen the Director of Public Prosecutions and was glad to be able to tell them that in effect they were "in the clear" and would be unlikely to hear any more of the matter. I can only assume that in doing so the Clerk had the best of intentions but that he had quite misunderstood the position.

(e) The Police Investigations (Part I)

79. On 5th January 1965 the Director of Public Prosecutions wrote to the Chief Constable of West Sussex asking him to begin investigations into the allegations that a number of Councillors at Bognor Regis had committed offences against section 76 of the Local Government Act 1933. The Chief Constable accordingly made arrangements for the investigations to begin and they continued with great thoroughness throughout the next few months.

80. On 28th January the Clerk wrote to the Director of Public Prosecutions asking that if any police investigations were to be undertaken they should be conducted by officers of an outside police force. But Mr. Smith has told me that he did not know that police investigations had started until

after the hearing of the sea defences case in the Court of Appeal, that is, until after 28th February. The fact that Mr. Smith should have written to the Director in the terms of his letter of 28th January, without being aware that the police had begun their investigations, seems to suggest that he was not entirely confident of the assurances he had given to the four Councillors on 22nd December.

81. The police investigations were conducted with discretion, first at Chichester and then—in plain clothes—at Bognor, but rumours about their existence began to circulate. Certain of the Councillors—notably, Councillor Fisk, who as he and the Clerk told me, was “on the inside” of the police investigations, and Councillors Goldsmith and Youngman—became aware of the police activities through the Clerk. But Mr. Smith told none of the four Councillors, whom he had reassured on 22nd December, that the police enquiries were taking place. Nor did he take the Chairman of the Council into his confidence because, so he told me, the police had enjoined him to secrecy and he feared that the Chairman might “breach his confidence” as he had done in December.

82. It is not altogether clear to me in what way the Chairman was supposed to have breached the Clerk’s confidence in December; the Chairman had learnt of the contents of the Director’s letter of 2nd December not from Mr. Smith but from the Deputy Clerk and had told Mr. Smith why he believed he ought to tell the four Councillors that accusations had been made against them. Nor is it clear to me why it would have been a breach of confidence if the Chairman had told the four Councillors that police investigations were in progress if it was not a breach of confidence for Mr. Smith to tell Councillors Goldsmith and Youngman.

(The scope and results of the police investigations are dealt with in Chapter 18.)

(f) The Clerk’s Conversations with Some Councillors about Other Members of the Council

83. Mr. Smith had formed the view, quite soon after his appointment, that Councillors Boothman and Vincent, because of the nature of their business interests on the sea front, should not be members of the Development Committee. He felt that declarations of interest under section 76 were not enough in their case to prevent those disposed to do so from thinking that those two Councillors might derive some business benefit from their membership of the Development Committee. He did not disguise his views from the two Councillors.

84. In conversation with Councillor Barry Rose during a luncheon on 18th November Mr. Smith commented unfavourably on Councillors Boothman and Vincent. His remarks were made in the context of suggesting to Councillor Rose, who was Chairman of the Chichester Conservative Association and a County Councillor, that the Conservative “image” was somewhat tarnished in Bognor and should be looked into by him. At a subsequent luncheon on 9th December, the Clerk informed Mr. Rose that complaints had been made to the Director of Public Prosecutions about several Councillors but, while it is Councillor Rose’s recollection that the

Clerk mentioned the names of those concerned, Mr. Smith tells me that he does not remember doing so. Whether or not Mr. Smith did mention names to Councillor Rose, I am satisfied, having heard the evidence of Mr. Smith and certain Councillors, that on a number of occasions he expressed his views on Councillors Boothman and Vincent to other Councillors ; and I am equally satisfied that he also mentioned to some of the Councillors the complaints to the Director of Public Prosecutions about certain members of the Council and the subsequent police investigations.

(g) *Bad relations between the Clerk and the Treasurer*

85. I have been told by several Councillors that they gained the impression that the Clerk and the Treasurer, Mr. Tailby, found it difficult to work together, and I have been provided with documentary evidence of two disagreements which arose between them.

86. The first of these arose after a ratepayer wrote to the Clerk complaining about the treatment he had received from the Treasurer. The Clerk replied to the complaint and there are phrases in his letter which might be construed—though that might not have been his intention—as showing that he shared some of the criticisms the ratepayer had made of the Treasurer. The Clerk also sent a Memorandum to the Treasurer which said that, if it was the Treasurer's practice to retain more money on account of rates than the amount due, without an agreement, he thought the practice should be discontinued as soon as possible and the balance returned to each ratepayer. Or, alternatively, a special agreement should be made with the ratepayer. The Treasurer replied that far more rate money was collected, particularly in a seaside authority, in the first half of the rate year than in the second half and that this was quite normal and equitable.

87. The second disagreement arose when the Clerk suggested the way in which the Treasurer should deal with a case of rate arrears caused by hardship. His justification for making the suggestion was that, in the particular circumstances of the case, it would be bad public relations if the Council were to prosecute the ratepayer for her arrears. The Treasurer had issued instructions that no summons should be issued against the ratepayer in question before the Clerk's memorandum reached him. He replied angrily to the Clerk that he, as Chief Financial Officer, was charged both by law and by a Council minute with the collection of rates, and it was not for the Clerk or any other person to interfere with the arrangements of his Department for the payment of rates. He continued the letter in an angry tone.

88. There ensued a lengthy correspondence between the Treasurer and the Clerk, during which Mr. Smith threatened Mr. Tailby with a writ for defamation. Neither of them emerges from this correspondence with credit, and I refrain from making detailed reference to it both for this reason and to avoid giving publicity to the affairs of the two ratepayers concerned.

89. The matters with which these two cases were concerned were so trivial that, in normal circumstances, they could have been disposed of by five minutes' conversation between the two officers ; they are not mentioned in order to pass judgment on the administration of the Treasurer's Department or on the merits of the criticisms made of it by Mr. Smith. The significance

of both cases is that they illustrate that there was a serious conflict of opinion between the Treasurer and the Clerk about the extent to which the latter, as Chief Administrative Officer, could intervene in the working of another Chief Officer's department. This, in my view, is confirmed by the fact that the Clerk had a number of copies of this correspondence prepared which he handed to certain councillors, from time to time, when he wished to give point to his criticism of the obstructive attitude of the Treasurer.

CHAPTER 5—THE SITUATION BEFORE 21st MARCH

90. I think the matters I have just referred to contributed to a perceptible change in atmosphere from that of the first three months of Mr. Smith's appointment, but there is little documentary evidence and my impression has been gained from the evidence I have heard from people who were doing their best to remember past events. From the same source I have gained the impression that what doubts there were as to the suitability of Mr. Smith as Clerk were confined to a very few Councillors.

91. Councillor Rose, who had decided early in the New Year that he would not stand for re-election to the Council, had formed a very unfavourable opinion of Mr. Smith before Christmas. He had discussed with Councillors Boothman and Vincent what Mr. Smith had said to him, in his position as Chairman of the local Conservatives, about those two Councillors. There were also occasions when one, and perhaps two other Councillors had joined in discussions about the Council's affairs and their Clerk's actions; I can see no reason why they should not have done so.

92. But I am satisfied that it was only Councillor Rose who had formed a definite view about the Clerk. I believe that the other three or four Councillors who had discussed the matter either between themselves or with the Chairman, were anxious to find some way in which they could both tell the other members of the Council in what respects the Clerks' administration was causing them anxiety and get the views of the others on what course the Council, as a whole, should follow.

93. The Chairman of the Council was in a dilemma; on the one hand he hoped that the criticisms he continued to hear of the administration were due to "teething troubles" which, given time, would disappear; on the other hand, it was becoming increasingly clear to him that his policy of holding off the critics and occasionally discussing specific criticisms with the Clerk was not having the effect for which he hoped. He therefore discussed what he should do with his Vice Chairman, Councillor Boothman.

94. Mr. Boothman was a very experienced Councillor and a former Chairman of the Council. He, like Councillor Vincent, had heard rumours that the complaints against him were being investigated by the police; neither of them had felt that they could raise the question of the Clerk's behaviour with the rest of the Council until the complaints against them had been disposed of.

95. When the Chairman consulted him, Mr. Boothman, who while he was Chairman had discussed difficult problems on an all party basis, suggested that the Chairman should call a meeting at his house composed of two "back bench" members of the Council from each of the three political parties.

CHAPTER 6—THE CHAIRMAN'S TEA PARTY ON 21st MARCH

96. Sufficient has been said to show that by this time the Chairman was a very worried man and I think it is necessary to say a word about him at this point.

97. Brigadier Horsfield is a retired regular army officer and like many of his profession he is essentially a man of peace. His absolute fair-mindedness and high integrity are universally respected. But the Brigadier's experience of local government is not great and he had been somewhat reluctant, therefore, to assume the Chairmanship. Necessarily, he relied a good deal on the more experienced members of the Council, particularly his Vice Chairman, and the Clerk. Any friction between them and the Clerk made his task the harder.

98. The Chairman appreciated that the Clerk's ways and approach were very different from those of his predecessor. He also knew that if the Clerk had his critics among the Councillors he also had his supporters, and he was determined that if possible any open friction should be avoided. Faced with solving this problem, he took his Vice Chairman's advice to discuss his worries informally with a representative cross-section of the Council. Accordingly, he invited to his house two Conservatives (Councillors Rose and Anderson), two Liberals (Councillors Kingsbury and Mrs. Moore) and two Labour Councillors (Mr. Phillips (a former Chairman of the Council) and Mr. Hill-Willis); only Councillor Phillips was unable to attend.

99. Of those who accepted the invitation, the two Conservatives knew the purpose of the meeting, Councillor Hill-Willis did not and Mrs. Moore had heard from the Chairman that the meeting was "to discuss the Clerk" and she had passed that on to Mr. Kingsbury.

CHAPTER 7—"STAR CHAMBER" OR PRIVATE DISCUSSION?

100. Looking back it can be seen that this meeting—or rather, the theories which were suggested as to its purpose and what was actually said at the meeting—was crucial to all that followed. I have therefore examined as closely as possible what occurred.

101. It is clear that before the meeting at the Brigadier's house Councillor Hill-Willis and the two Liberals knew nothing of the Chairman's anxiety that all was not well with the administration. Councillor Rose, of course, had already formed his own views. Councillor Anderson was one of those who had resented being "lectured" by the Clerk on section 76 and had not taken kindly to the Clerk's telling him that Councillors Boothman and Vincent should not be on the Development Committee.

102. At the meeting the Brigadier explained why he had asked them to come and see him and enumerated the matters of complaint which had been brought to his attention. Councillor Rose expressed his view forcibly that the Clerk was such a disruptive influence in the Council that he was not prepared to put up with the situation any longer and had told his Association that he could not continue as a Councillor after the Elections to be held in May 1965. He is said by the two Liberals to have said that it would be ten years before the Clerk could be "got rid of" if it was not to be done soon. Councillor Rose also gave it as his opinion that the Clerk was a sick man. Councillor Hill-Willis took some part in the discussion and at one stage enquired what the terms of the Clerk's employment were. Councillor Anderson and the two Liberals took a lesser part in the general discussion but when the meeting turned to consider what should be done about the situation, all three pressed for the matter to be referred to a full Council meeting. This was agreed by all those present and the meeting broke up in expectation that this would take place as soon as possible; I think it was suggested that the matter might be discussed after the Council meeting to be held on 23rd March.

103. Brief notes of what had been said at the meeting were taken by Councillor Kingsbury for his own purposes.

104. It is perfectly clear from the subsequent newspaper articles based on these notes, and, more importantly, from the evidence I have heard from all the members present, that the meeting was informative and exploratory, and was in no sense called or conducted with the objective of discussing how to get rid of the Clerk. Although I was told that at the conclusion of the meeting the impression of the two Liberals was, as Mrs. Moore put it, that the Clerk "had had it", I think that this impression was derived solely from the way Councillor Rose had expressed himself and not from anything that had been said or implied by the Chairman or any other member present.

CHAPTER 8—THE CLERK LEARNS OF THE MEETING

105. On the Saturday morning preceding the meeting, Councillor Kingsbury went to see the Medical Officer of Health, Dr. Warren Browne, in his office at the Town Hall. He said that he and others had been invited to the Chairman's house next day "to discuss the Clerk" and asked Dr. Warren Browne's advice. After the meeting on 21st March Councillor Kingsbury went to see Dr. Warren Browne and gave him a description of what had taken place at the meeting.

106. The Clerk had been away for the weekend. According to what Mr. Smith told me, on his return to Bognor on the Sunday night he either telephoned, or was telephoned, by Dr. Warren Browne, who told him about the meeting at the Chairman's house. He gave Mr. Smith an account of what had been said at the meeting and suggested, according to Mr. Smith, that "frightening" things had been said which had serious implications for the Clerk.

107. Dr. Warren Browne told me that after he had seen Councillor Kingsbury he tried to telephone Mr. Smith on Saturday but found that

he was away for the weekend ; he therefore left a message asking the Clerk to telephone him. Apparently the message was passed on to Mr. Smith because that evening he telephoned Dr. Warren Browne from Coventry. Dr. Warren Browne told him that Councillor Kingsbury had been to see him and that there was to be a meeting the next day at the Chairman's house to discuss the Clerk's conduct. On Sunday night Mr. Smith again telephoned Dr. Warren Browne, who told him what Councillor Kingsbury had said to him about the meeting at the Chairman's house. Dr. Warren Browne's impression from what Mr. Kingsbury had told him was that a special meeting would be called—after the Council meeting on 23rd March—at which the Clerk would be dismissed. It seems likely to me that he conveyed this impression to Mr. Smith when they spoke on the telephone on the night of Sunday, 21st March.

108. After his telephone conversation with Dr. Warren Browne, the Clerk telephoned Councillors Kingsbury and Mrs. Moore but both of them were " guarded " in reply to questions about the meeting.

109. The next day, Monday, Mr. Smith had lunch at Midhurst with Councillor Kingsbury in order to discuss the meeting and the latter showed him the notes he had taken at the meeting.

110. After what he had been told about the Chairman's tea party, Mr. Smith was in a very agitated condition and that evening, Monday, 22nd March, he set out to see several Councillors who he thought might have been at the meeting. Neither Councillors Mrs. Locke nor Phillips could help him. He also saw Councillor Hill-Willis who told him that, with the exception of Councillor Rose, those at the meeting had expressed no real dissatisfaction with the Clerk but had said that they wanted the situation discussed at a full Council meeting. During this conversation Mr. Smith told Councillor Hill-Willis that the Director of Public Prosecutions had received complaints about the four Councillors, whom he named, and said that investigations had been begun by the police which would be likely to result in prosecutions. He also said that the police were looking into the Ice Cream Concession and the agreement with Butlin's. As an example of the difficulties he had to face Mr. Smith gave Councillor Hill-Willis a copy of some correspondence he had had with the Treasurer and two ratepayers. (This is the correspondence referred to in Chapter 4, Section (g)).

111. I have not been able to get a very clear account of exactly what the Clerk was told by Dr. Warren Browne and Councillor Kingsbury but I think that he was led to believe that there was a move afoot to get rid of him and that this was to be pursued after the Council meeting on 23rd March.

112. Mr. Smith told me that he understood that it had been suggested at the meeting at the Chairman's house that he was " mentally ill ", and he thought the idea emanated from Councillor Rose. It is recorded in the supplemental statement that Councillor Kingsbury made to the police on 29th April (reproduced in paragraph 144) that Councillor Rose said that the Clerk was a sick man ; there is no record in that statement of Councillor Rose suggesting that the Clerk was " mentally ill ". I therefore asked Mr. Smith what had led him to believe that his mental health had been discussed. In reply he told me that it was because the case of a Town Clerk whose appointment

was terminated on grounds of mental ill-health had been discussed at the meeting ; and he said that those who had been present would confirm that this case had been discussed. I therefore recalled all those who had been present at the meeting. None of them had any recollection of the Town Clerk in question being referred to by Councillor Rose or anyone else at the meeting.

CHAPTER 9—THE COUNCIL MEETING OF 23RD MARCH AND THE CLERK'S "BOMBSHELL"

113. I am conscious that there are many gaps in the information which I have been given about the events between 21st March and the Council meeting on 23rd March when the Clerk exploded his "bombshell". I set out the facts as I have been told them or as they are shown in the documents I have been given.

114. The Clerk had known, certainly since the beginning of March, but I think not earlier, that the police had been requested by the Director of Public Prosecutions to make investigations into complaints about offences under section 76. Some members of his staff were necessarily aware that these enquiries were taking place. Mr. Smith has told me that rumours that the police were making investigations in the Town Hall had also started to spread. The police were anxious that no comment should be made.

115. As a result of what he had been told by Councillor Kingsbury and Dr. Warren Browne, the Clerk had formed the view that the meeting on 21st March either was, or was the result of, a plot by the Councillors who he knew were under police investigation and that the aim of their plot was to get rid of him because, as he later said to the Press, he had been assisting the police. He became anxious that he should be authorised to state publicly that investigations were taking place and wished to be in a position to do so at the Council meeting on 23rd March. He therefore asked the police if he might be allowed to make a statement to this effect but the Chief Constable felt that, before he could agree, the Director of Public Prosecutions should be consulted. The Clerk accordingly telephoned the Office of the Director of Public Prosecutions several times on 23rd March. Mr. Smith handed me a transcript of one of these calls. It reports his conversation with Mr. MacDermott and Mr. Jardine of the Director's Office. As I think this transcript throws some light on the course of events at the Council meeting held that evening, I set it out in full. The only observation which it is necessary to make at this point is that the Office of the Director of Public Prosecutions would not authorise the Clerk to make any disclosure but left it to his discretion to do as he thought fit.

Note of a Telephone Conversation between Mr. Paul Smith and Mr. MacDermott of the Director of Public Prosecutions' Office

"Mr. Smith: Hello, Mr. MacDermott. It's Paul Smith of Bognor Regis. You probably don't remember me. I came to see you about section 76. We had a little chat with Jones. I'm ringing you up because I believe the papers are now with you, so the Inspector told me down here. They have sent the papers to you for vetting before they put the Summons out. The papers have probably gone to Jardine. I wanted to have a little word with

somebody who knows about it, because something has cropped up, and something is going to crop up to-night which is quite serious. I told the Police Inspector that I was going to have a word with you about it. Perhaps it's better for me to talk to Jardine or Jones. Do you remember what happened? Probably so much has gone under the bridge since.

Mr. MacDermott : Mr. Jardine is with me and he is listening.

Mr. Smith : What I really rang up about was to tell you that the point has now been reached where the gentlemen that you have the information on—the one in particular and the other one who is being investigated—have had wind of this from some source or other, and have had it for some months since your original letter. You remember you sent me an original letter which was opened and not marked confidential. There was a complaint about four Councillors. This has gone on. These two gentlemen who are mainly concerned apparently have been very worried, and have thought that this and other things make it pretty obvious that I am assisting the police. This is why the thing is coming to fruition, and they have started a campaign behind closed doors for the sole purpose of getting rid of me without giving any reasons—giving me notice. This apparently happened—I have only just had the information on it—on Sunday afternoon at a secret meeting, and is due to come up to a secret meeting after the Council meeting. The Councillors here have no idea that there is any investigation going on, and in consequence they have no idea quite what is going on behind this move.

Mr. MacDermott : A secret meeting of whom?

Mr. Smith : A secret meeting of the Councillors who are involved in this enquiry for the purpose of saying 'We must get rid of the Clerk'. They will give no reasons. Some of the reasons which were discussed behind closed doors were that I ought to have informed them about everything that's gone on over this enquiry. Basically that's the main reason. Now I am being pressed very hard by reporters who have got hints of what is going on from the one Councillor who is not involved who has told me, and there is a meeting to-night and the Press are very probably coming to see me about this with the television people this afternoon. Now I have discussed this with the Inspector concerned, and one doesn't want publicity normally—we have been saying "No comment", and no one officially knows about it. Where the point is reached of a secret meeting—almost a conspiracy—there is nothing to stop them turning me out. There is no security under the Statute of Town Clerks. When it's reached this point my own view on it is that it may do a lot of good for this to be brought into the town—I shall have to give the Press an indication that I know there is some kind of Star Chamber business going on; from what I have heard; and the reasons, and they are going to say to me "Isn't it a fact that you are being chased by the Councillors about this enquiry?". Previously I have said "No comment". Its reached the point when I'm going to say very regretfully to-day that this is so. This kind of Star Chamber treatment of anybody I have never come across before. This thing this afternoon will probably break in that way. I have told the Inspector, and he appreciates the point. I wanted to warn you about it—just to tell you what was going to happen. I shall have a word with the Chief at the County. I didn't know about the secret meeting before—I didn't know it had got this far.

Mr. MacDermot : Where are you speaking from?

Mr. Smith : From my office—Bognor 1660. I shall be leaving in a quarter of an hour. I have got a meeting in Chichester. I obviously don't want to muck you about. Inspector Tapp thinks it will do more good from my point of view. I just can't avoid doing it now. I have obviously got to let the public have the facts. Otherwise, it's all going to be done behind closed doors.

Mr. MacDermot : Can you hang on a minute?

Mr. Smith : Yes. That's all right. I'm in the office.

Mr. MacDermot : We've just had a little talk about it, and I feel that it's entirely a matter for you as to what to do about this.

Mr. Smith : I don't want to put you in a position but what I did want to do is not to do anything to put you in a position which will embarrass your own set up there. The Councillor who did tell me said that he was quite sure that if the facts came out this would really clear the air completely. This would stop all other nonsense.

Mr. MacDermot : I can't authorise you to make any disclosure. Anything you say can't be on behalf of the Director in any sense.

Mr. Smith : No, I take that point.

Mr. MacDermot : Thank you for letting me know, otherwise we'd just be reading it in the papers.

Mr. Smith : Jardine did make the point about the position of the Clerk—tell him I have gone into this now in some detail. I have looked at this old case—the District Audit case in 1944—this statement by the Lord Chief Caldecotte—he made certain comments on what he thought the duty of the Town Clerk was in regard to these things, and the point about the responsibility resting on him to give the facts out in this kind of thing even where there is an infringement of section 76. This is very rarely done by a Clerk for obvious reasons. I think that the position is that I have got to personally associate myself with the complaints that have been made, and to make in fact an official complaint. This is what I intend to do. I would like to have his reaction to that because it's something I think which has got to be put out, and made quite clear. There is a lot of public enquiry and they want to know where the Clerk stands—is he doing anything about it. I have got to be quite honest and say that I support the substance of the complaints which have been made on the information that I have personally through my own knowledge and through my own eyes, and I am prepared to back that even though it means at some personal embarrassment.

Mr. MacDermot : The case is "Hurle-Hobbs and Riley", was it?

Mr. Smith : Yes, and as he said in that it's the duty of the Town Clerk . . .

Mr. MacDermot : What year was this case?

Mr. Smith : 1944. In a similar set of circumstances to these—to come out and to rely upon the public and the Press to safeguard him. There is nothing

in the statute that can do it. He said that question must arise at once as to whether it is not his duty forthwith to resign his office or, at any rate, to do what he thinks right and await the consequences. Publicity may be safely relied upon for in fact the position in which the Town Clerk was said to have been placed . . . I gather that Mr. Jardine obviously does not want to make any comment. Perhaps you would like to ring me after lunch. I shall be here after three, and I would be glad if you could put him in the picture. You could perhaps tell me—how is the thing going as regards Boothman? I believe Jardine has got the papers.

Mr. MacDermot : I will put you on to him.

Mr. Jardine : I have got a report in, but this is sort of a preliminary report, which is the way we normally consider these things, and then we decide whether the Councillor should be interviewed. I think with Boothman we should certainly decide that he should be interviewed otherwise that case you mentioned, which is one I am not particularly familiar with—the only line I have ever taken is on rather a different thing—that it's not for the Clerk to decide whether a person has got a pecuniary interest or not. He can only warn him. If the Clerk thinks there has been a breach I think it is right for him to report it.

Mr. Smith : This in practice isn't done at all, is it?

Mr. Jardine : I suppose one's got to use his discretion. I will have a look at that case.

Mr. Smith : Give me a ring after lunch. All right?"

116. While Mr. Smith did not tell the Chairman of the Council that he wished to announce the police investigations at the Council meeting, he did tell Councillor Fisk.

117. Just before the start of the Council meeting the Chairman was handed a letter from Mr. Campion ; with it was enclosed a copy for the Clerk. The Press had already received copies. This letter read as follows :

Solarium,
Aldwick Avenue,
Bognor Regis,
Sussex.
23rd March 1965.

Brigadier Horsfield,
Chairman of the Council,
Town Hall,
Bognor Regis, Sussex.

Dear Sir,

Is it not a fact that the Director of Public Prosecutions has initiated police enquiries into the activities of certain Members of the Bognor Regis Urban District Council?

Is it not also a fact that certain Members concerned have set up a "Star Chamber" Committee to get rid of the Clerk of the Council who is trying to get Justice done in the interests of all residents of the town?

Yours faithfully,
(ERIC W. CAMPION.)

118. The timing of this letter was calculated to give the Chairman the minimum opportunity to consider how to deal with the highly explosive situation that the publication of such a letter was bound to create. The accounts given to me by the Chairman and Mr. Smith of the brief conversation they had before the beginning of the meeting are different.

119. The Chairman's version of his discussion with the Clerk is as follows: He had been to see the Chief Constable of West Sussex on 12th March because he had heard rumours that, notwithstanding what the Clerk had told the four Councillors on 22nd December, the police were investigating certain members of the Council. The Chief Constable had told him that it was his policy to make no comment on such rumours and he would neither confirm nor deny that police investigations were taking place.

120. Mr. Campion's letter came as a shock to him. He had, of course, heard the rumours about the police investigations but did not know the truth of them and so could not answer the first of Mr. Campion's questions: the second question plainly implicated him.

121. His recollection is that he received the letter a few moments before the Council meeting was to begin; he showed it to the Clerk in the latter's office where they were discussing the items on the agenda for the meeting. He believes he asked the Clerk what he should do about the letter and that Mr. Smith advised him to read it to the Council. The Chairman said he was not sure that he should accept this advice since the letter was addressed to him and contained what he considered to be an unfounded accusation against him. He came to a decision and told the Clerk that he would not read the letter to the meeting but instead would answer it himself by letter. He told me that, later, during the Council meeting, the Clerk leant across to him and asked if he was going to read out the letter; upon being told that he was not going to read it out, the Clerk got up and read out the following prepared statement:—

"In view of the questions which have been asked by the public and the Press, and the obvious public concern about this matter in the town, I think it is proper that I should report that I have today been in touch with the Director of Public Prosecutions, and I can now confirm officially that he has received several complaints regarding alleged offences committed by certain Bognor Regis Urban District Councillors. In consequence he has directed that police investigations should be carried out."

122. After the meeting a number of Councillors approached the Chairman to enquire who was implicated, since no names were given in the statement, and he told them that he did not know as this was the first he had heard that there were police investigations.

123. According to the Clerk, what occurred is the following: At his news conference the previous day (22nd March) the Press seemed to have got wind of both the police investigations at the Town Hall and of the "Star Chamber" meeting on 21st March and they were pressing him for information on both matters. He had, therefore, after consulting with Detective Inspector Tapp, who was in charge of the police investigations, and communicating with the Office of the Director of Public Prosecutions, come to the Council meeting with a prepared statement. He would have made the statement even if Mr. Campion's letter had not been handed in.

124. When the Chairman showed him Mr. Campion's letter and asked him what he should do about it, Mr. Smith told me that he replied that while he knew the answer to the letter's first question and proposed to make a statement about it that night, he did not know the answer to the second, although he had heard that there had been "some kind of chat" on the lines of Mr. Campion's question. He then asked the Chairman what he intended to do and the latter replied that he did not know, but he could at least assure the Clerk that there had been no Star Chamber designed to dismiss him. Mr. Smith then told the Chairman that the best thing for him to do was to read Mr. Campion's letter to the Council during the meeting and answer the questions it posed. The Chairman agreed to do so, but in the event he neither read the letter nor dealt with the questions it contained. When the Clerk saw the Chairman was not going to deal with Mr. Campion's letter, he stood up and read his prepared statement.

125. The statement was, as Mr. Smith intended it to be, a "bombshell" to the majority of the Councillors, although five of them, Councillors Fisk, Youngman, Goldsmith, Kingsbury and Hill-Willis had already been told by the Clerk that police investigations were in progress.

CHAPTER 10—MR. CAMPION'S INTERVENTION

126. Mr. Campion is the Managing Director of a poultry firm in Smithfield. While he has a house in Bognor he usually spends the working week in London and returns to Bognor only at the weekends. He told me that he voted for the first time at any election, either local or general, when he voted for Councillor Anderson at the local elections in May 1965. His interest in the activities of the Bognor Regis Council is recent and is inspired largely by the Council's main drainage proposals and the Aldwick Sea Defences scheme, to both of which he either is or was opposed.

127. It will be recalled that he wrote to the Director of Public Prosecutions on 8th December 1964 complaining about the activities of three members of the Council, all of whom, as it happens, were supporters of a sea outfall. On 14th January 1965 he again wrote to the Director and in this letter he insisted that action be taken against those whom he describes as "the Chief Offenders", i.e., Councillors Boothman and Vincent, both of whom, he thought it helpful to say, were in favour of a sea outfall. He also warned the Director of Public Prosecutions that unless action was taken, he would feel entitled "to hand all the facts, together with copies of my letters, to the national press, such as the *Daily Mirror* or the *People*". This threat was, of course, ignored by the Director.

128. During February 1965 Mr. Campion was instrumental in the formation of "The Clean Sea Committee", of which Dr. Warner, a distinguished medical consultant, became the Chairman. Dr. Warner was principally concerned with the medical aspect of the Council's sewerage proposal. The Committee, which had several members, of which, for a time, Councillor Fisk was one, had two main objects, to alert public opinion to what it considered were the dangers to public health of the proposed sea outfall and to campaign for an inland disposal works to be built instead.

129. Some of Mr. Campion's methods of propaganda were offensive to both the Councillors who disagreed and those who agreed with his views on the proposed sea outfall. In particular the Council considered that his distribution of leaflets containing warnings calculated to deter even the least fastidious from entering the sea at Bognor amounted to a campaign designed to induce those whose livelihood was likely to be damaged by such propaganda to bring pressure on the Council to change its policy with regard to the sewage outfall.

130. The Clerk, like a number of Councillors and Dr. Warren Browne (with whom he had discussed the matter soon after his appointment), was also an opponent of the proposed sea outfall. He had made his views known at a meeting, to which, at Mr. Smith's request, the Chairman had accompanied him, of the Ratepayers Association Executive Committee on 22nd December 1964.

131. It was perhaps unfortunate for Mr. Smith that the night on which he had determined to burst his "bombshell" in making a public disclosure of the police investigations, was the night chosen by Mr. Campion not only to ask a question on the same subject but also to ask a question about a Committee, which he styled, perhaps not very aptly, a "star chamber" to dismiss the Clerk.

132. Certain Councillors remarked the coincidence and wondered what connection there might be and how Mr. Campion had acquired his information. So did I, particularly since Mr. Smith used the epithet "star chamber" in his conversation with Mr. MacDermott on 23rd March and Mr. Campion also used that phrase on the same day to describe the same meeting.

133. I received an assurance from Mr. Smith that he had had no communication with Mr. Campion on either of his questions. I received the same assurance from Councillor Kingsbury and Dr. Warren Browne.

134. Mr. Campion informed me that he first heard of the "star chamber" meeting within twenty-four hours of the tea party. He claimed that this was his own description, culled from his reading of the period of Charles I, and fitted what he had been told had happened at the meeting. He declined to tell me who his informant was or at what time of day he was given the information. But he did tell me that the information he had received was to the following effect. Councillor Rose had given guidance on a way to get rid of the Clerk without the risk of legal proceedings; the Chairman had presented a long list of complaints, some trivial, some larger, compiled not by himself but by (among others) Councillors Boothman and Vincent; the idea of presenting this list to the representatives of the Labour and Liberal Parties was to get their support, after which the Clerk would be

voted out of office in the Council Chamber ; however, the Liberals had not liked this proposal and insisted that a council meeting should be called to discuss the matter. He also told me that his informant had not been at the meeting but had got the information from someone who was there.

135. Mr. Campion told me that a day or two before 23rd March he had decided to raise in public the question of the police investigations because he knew that there was a six months' time limit for bringing a prosecution for an offence under section 76 and his undisclosed informant had told him that "eight out of nine charges had been allowed to die" in this way. (The truth of the matter is that the Director of Public Prosecutions was satisfied that the evidence justified the police proceeding on only two charges, but Mr. Campion's informant could perhaps not have known that).

136. As to his letter of 23rd March to the Chairman, Mr. Campion told me that he had not discussed its terms with anyone before he sent it. However, during that day he had telephoned every press agent in the area and told them that just before the Council meeting that night he would be handing to the Chairman an important letter concerning the affairs of the Bognor Regis Council ; copies of that letter would be available to the press at 6.30 that night, before the meeting began.

137. It seems clear to me that the person who passed the sort of information which Mr. Campion says he received must have intended Mr. Campion to use it to cause trouble. The identity of Mr. Campion's informant remains unknown to me.

138. The Chairman replied to Mr. Campion in a letter which denied the allegations about the "star chamber". This provoked a letter dated 29th March from Mr. Campion, calling upon the Chairman to resign: that letter is reproduced below:—

"Solarium,"
Aldwick Avenue,
Bognor Regis.
29th March 1965.

Brigadier H. E. Horsfield,
Chairman of the Council,
Town Hall,
Bognor Regis,
Sussex.

Dear Sir,

I am in receipt of your official communication, dated 26th March 1965, in which you categorically deny the setting up of any "Star Chamber" Committee with the purpose of removing the Clerk of the Council.

I have in my possession a signed statement issued by two Councillors, who were invited to the three-party committee, presided over by you as Chairman, and held at your house on Sunday, 21st March 1965.

It lists in full detail all points raised by you, as Chairman, of what appears to be an illegal sub-committee (described by me as "Star Chamber" Committee). All points debated involved the behaviour and

administration of the Clerk and his department, either directly or indirectly.

Other matters, not listed in this statement, have now been conveyed to the C.I.D. in the form of a signed statement, so cannot be revealed by me owing to their implications; it is possible that legal proceedings might result from this information.

I understand that certain Councillors called to this meeting, on learning the matters listed by you for discussion, requested that you arrange for the Clerk to call a full Council meeting at the Town Hall as soon as possible.

Firstly, the meeting was described as a "tea-party for a few Councillors and their wives". Later, its description became a "meeting of a few Councillors to discuss current rumours". As neither of these descriptions can be accepted as a fair and accurate description of a five member, three party committee meeting called by you and presided over by you, outside the Council Chamber, I believe that you have deliberately misled the ratepayers.

I must therefore request your immediate resignation as Chairman of the Council.

Copies of this letter are being issued to the Press, and details forwarded to the Minister of Housing and Local Government, requesting a full Ministerial enquiry into the affairs of the Bognor Council.

Yours faithfully,

(signed) ERIC W. CAMPION.

139. Despite what he said in this letter, Mr. Campion was not in possession of "two signed statements". He had telephoned Councillor Kingsbury a day or two before 29th March and learned that Mr. Kingsbury had given a statement to the press, a copy of which Mr. Buckfield, a reporter on the Bognor Regis Argus, could probably give him. In due course, he obtained a copy from Mr. Buckfield.

CHAPTER 11—THE LIBERAL PRESS STATEMENT

140. On 29th March there appeared in the *Evening Argus* a long statement from Councillors Mrs. Moore and Kingsbury, who were sensitive to the suggestion that they had taken part in a "star chamber" meeting. The article also included brief statements from the other Councillors who had been present at the meeting at the Chairman's house on 21st March, in which all of them derided the suggestion that the meeting they had attended could be described as a "star chamber", and said that they would welcome a meeting of the Council to discuss the whole matter.

141. The Liberal Councillors' statement said that the Chairman had told the meeting that he was worried by certain rumours and wanted to share

his worries with what he called a representative section of back-benchers ; he had then referred to the following matters :—

- (i) The " atmosphere " in the town hall.
- (ii) The Clerk's daily timetable.
- (iii) The increased number of communications the members had to read.
- (iv) The number of staff employed in the Clerk's Department.
- (v) The ratepayers' meeting which the Chairman and Clerk attended at which the question of sewage disposal was raised.
- (vi) The deployment of the Clerk's legal assistant.
- (vii) The Clerk's implementation of certain Council instructions.

142. A more detailed account of what had been discussed at the meeting was given on the same day (29th March) to the Police by Councillor Kingsbury, in a statement witnessed by the Clerk. Councillor Kingsbury elaborated that account in a supplemental statement he made to the Police on 5th April. Both these statements are reproduced below since they provide a relatively contemporaneous account of what occurred according to the recollection of one of those present at the Chairman's house on 21st March.

143. *Councillor Kingsbury's First Statement*

" I, John Kingsbury, of 19 Glenway, Bognor Regis in the County of Sussex make the following statement :

At a meeting held at the home of the Chairman of the Council, Councillor Brigadier H. E. Horsfield, on 21st March 1965, at which there were representatives of the three political parties, Mr. B. Rose, Mr. A. Anderson, Mr. D. Hill-Willis, Mrs. F. D. Moore, the following items were discussed :—

- (1) The leaving of Mr. Jones (Deputy Clerk) and his unhappiness with the present Clerk of the Council.
- (2) The bad relations between Mr. Tailby (Treasurer) and the Clerk.
- (3) Mr. Annis unhappy.
- (4a) Constant absence of the Clerk from the Town Hall ; Society of Clerks.
- (4b) No notice taken of Chairman.
- (5) Feeling of insecurity and suspicion in the Town Hall.
- (6) Too much paper work for Members, e.g. unnecessary letters.
- (7) The increase of staff in the Clerk's Department.
- (8) The ratepayers' meeting which the Clerk attended and where he openly opposed the Sewage Outfall Scheme.
- (9) The unauthorised instruction of the Clerk to Mr. Laing to prepare a case in defence of Mr. James, the Housing Manager.
- (10) The instruction to the Clerk to look into the Butlin's contravention of agreement with this Council ; his going direct to Sir William and his arranging a meeting between Max Lock and Sir William.
- (11) The Clerk contacting Sea Front Developers and stating that the Council was not concerned with ground rents.

I was told by Councillor Barry Rose that the Clerk had met him for lunch and that the Clerk had said that he thought the Liberals, through me, had made certain allegations to the Director of Public Prosecutions.

Signed J. KINGSBURY.

29th March 1965.

Witnessed by Paul Smith,
Clerk of the Council ”.

144. Supplementary Statement from Councillor Kingsbury

“ I, John Kingsbury, of 19 Glenway, Bognor Regis in the County of Sussex wish to add to my statement of the 29th March 1965.

Brigadier Horsfield stated at the meeting on the 21st March referred to in the above-mentioned statement that:—

- (a) he had been to see the Director of Public Prosecutions or the Chief Constable (I cannot remember which) who had told him that certain allegations would not proceed ;
- (b) he thought there was a danger of the administration in the Town Hall breaking down and believed that this was the fault of the Clerk.

I interrupted Brigadier Horsfield to ask him if any other Members had knowledge of this meeting and he said that he had only consulted the Vice Chairman about it. Councillor Barry Rose stated that he thought that the Clerk was playing at power politics and turning Members of the Council against one another. He further alleged that he had been biased in the Clerk's favour at first because he had heard that the Clerk had been very helpful to the Conservatives in the Warwickshire area. He was, now, however, of the opinion that Mr. Smith was a sick man. He further stated that the Clerk was manoeuvring Members in order to secure the election of one of them as Chairman of the Council. Mr. Rose would not stand for re-election because he alleged the Clerk had created an unhealthy atmosphere and he would not continue in such circumstances.

Mr. Anderson pointed out that a young man with new ideas was likely to create considerable animosity among Officers and that we should be prepared to accept this. Mr. Anderson agreed that the Clerk had been playing one Member off against another and he regarded this as a most serious thing. He said that the Clerk had made efforts to keep him, Councillor Anderson, particularly well-informed of all matters but that he had resisted being involved and had kept away from the Clerk's office.

All Members present agreed that there should be a meeting of the whole Council after the Monthly Meeting on the following Tuesday, but there was some disagreement as to whether or not the Clerk should remain for that meeting. Mr. Rose, who arrived some minutes late for the meeting, apologised to Brigadier Horsfield for forgetting to bring with him certain papers relating to the Clerk's weekly timetable. In fact, no papers were ever produced for proof purposes.

Brigadier Horsfield raised the point about bad relations and mentioned inter-departmental correspondence between the Clerk and the Treasurer. He said that he had seen this correspondence about a certain ratepayer and

that the correspondence had been childish and he had been very annoyed about it and said that this sort of thing must cease. The atmosphere of suspicion and distrust was a general thing referred to earlier and was not related to this, as far as I can recollect.

Brigadier Horsfield made a remark about the Council "not being concerned with ground rents" saying that the Clerk was taking upon himself a policy decision which he had no right to do. The question of ground rents was the prerogative of the Development Committee.

Brigadier Horsfield gave one the impression that he had spoken to the Clerk on some of these points and had had little success.

I have read this statement over to Councillors Mrs. Moore and Hill-Willis and in substance they agree that it is an accurate account of what went on at the said meeting.

Signed J. KINGSBURY.

5th April 1965."

CHAPTER 12—THE COURSE OF EVENTS BETWEEN 23rd MARCH AND 6th APRIL

145. The combined effect of the Clerk's statement to the Council and Mr. Campion's letter had the result which might be expected. The "Police Probe" and the "Star Chamber" made headlines in the local and national press and the affairs of Bognor have been news ever since. Naturally, Councillors were extremely concerned about the revelations of police investigation and at the suggestions that "star chamber" activities were taking place in order to get rid of the Clerk.

146. The remaining part of this Chapter is given over to a description of the principal events of the period between 23rd March and 6th April.

147. On 24th March in an interview with the *Evening Standard*, the Clerk is reported as saying, somewhat cryptically, of Mr. Campion's "Star Chamber" allegation:—

"If there is any truth in it it could amount to a criminal conspiracy. There has been no mention to me by any Councillor of what I have done to assist the police."

148. He also wrote the following letter to the Chairman.

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,
Bognor Regis.

24th March 1965.

Dear Mr. Chairman,

Chairman's Communications

I am very concerned at the second paragraph of the letter handed in at the Council Meeting last night, and to the allegations contained therein. I need not emphasize the serious nature of this matter if the allegations are true.

I am in fact making enquiries to try and get to the bottom of what could amount to a criminal conspiracy if these allegations are true, and in view of your personal denial to me last night that there was any truth in such allegations, I should be glad if you would let me have your written assurances.

If, however, there is any element of truth in the allegations, then I think you must make the whole matter public immediately and give the full facts.

I need not say that, as the contents of the letter in question were apparently handed to the Press, the matter is now one of National as well as local concern and must be put right.

Yours truly,

(signed) PAUL SMITH,
Clerk of the Council.

Brig. H. E. Horsfield, C.B.E., M.C., J.P.,
Chairman of the Council,
St. Julian's, Crossbush Road,
Felpham.

149. On 25th March the *Evening Argus* carried a report of a meeting at the Town Hall between the Chairman, Mr. Campion and the Clerk, at which the Chairman reiterated that the meeting at his house did not discuss how to get rid of the Clerk. Mr. Smith is reported to have said that if any allegations reflecting on his professional integrity and ability were repeated he would have no alternative but to sue.

150. The next day, 26th March, the Chairman sent the following reply to the Clerk's letter of 24th March.

Chairman's Room,
Town Hall,
Bognor Regis.
26th March 1965.

Clr. Brig. H. E. Horsfield, C.B.E., M.C., J.P.,
Tel. No. 1660.

Dear Mr. Paul Smith,

With reference to your letter of 24th inst. concerning allegations made in a letter handed to me just before the Council Meeting on Tuesday.

I can categorically confirm that to the best of my knowledge there is no "Star Chamber" Committee or concerted action to "get rid of the Clerk" as quoted in the letter. There have been grumblings and general complaints about the Administration of the Town Hall, and a number of Members have voiced them to me. I have felt it my duty to try and specify these complaints, and when I have ascertained specific matters I have mentioned them to you.

In order to air these matters I feel that a Special Council Meeting should be called at an early date, say, Tuesday 30th next. Suggested Agenda—"Staff Matters"—to consider the Implication of letter from Mr. E. W. Campion, dated 23rd March".

Yours truly,

(signed) H. E. HORSFIELD.

151. The extracts reproduced below are from a report published in the *Evening Argus* on 27th March.

"Mr. Ernest Fisk, Chairman of Bognor Regis Council's Highways and Foreshore Committee, said last night that he is trying to force a special open council meeting to discuss the alleged existence of a "Star Chamber" committee designed to get rid of the Clerk of the Council, Mr. Paul Smith

Mr. Fisk said that he had been aware for about two weeks of secret meetings of several councillors but he did not know what was going on behind locked doors.

He said he did not know which Councillors had attended the meetings, and he was not invited to attend.

Mr. Fisk said: 'I cannot prove that these meetings have taken place. But I am 100 per cent behind Mr. Smith in what he has done'".

152. At a meeting in the Clerk's office on 29th March Mr. Kingsbury gave Detective Inspector Tapp the first of his statements about the meeting at the Chairman's house (reproduced in paragraph 143). Also on that day Mr. Campion sent a letter to the Chairman calling upon him to resign.

153. On 30th March fifteen Councillors signed a request to the Chairman to hold a special meeting of the Council to discuss the alleged existence of a Star Chamber. In the event procedural requirements did not permit such a meeting to be held before 6th April.

154. On 31st March Councillor Fisk sent a letter to the Director of Public Prosecutions in the following terms.

Telephone:
Pagham 240

" Stresa ",
Wychwood Walk,
Bognor Regis, Sussex.
31st March 1965.

The Director of Public Prosecutions,
12 Buckingham Gate,
London, S.W.1.

Dear Sir,

In my view there is evidence of a conspiracy on the part of certain Bognor Regis Councillors, to manufacture reasons for evicting the Clerk of the Council. The reasons behind this would appear to be connected with the present investigation that is now proceeding.

A council meeting has been petitioned for Tuesday of next week, I would appreciate your guidance on how the matter should be approached.

Yours faithfully,

(signed) ERNEST G. R. FISK.
Chairman of Highways & Foreshore Committee
Bognor Regis Urban District Council.

155. This letter was composed in collaboration with the Clerk who supplied Mr. Fisk with a draft in his handwriting comprising the words underlined; Mr. Fisk completed the letter. He also sent the Clerk a letter which he had written to the Chief Constable; Mr. Smith was to read the letter and seal it. I have not been able to see a copy of that letter. Sometime later,

but before the Clerk was dismissed, Councillor Fisk told a Special Purposes Committee meeting how his letter to the Director of Public Prosecutions came to be written.

156. The Director of Public Prosecutions replied to Mr. Fisk on 1st April, stating that if he had evidence that a criminal conspiracy had been committed the proper course for him to take was to refer the matter to the Police.

157. In fact the matter had already been reported to the Police by Councillor Kingsbury and Mr. Smith on 29th March. Inspector Tapp accordingly interviewed the Chairman, Councillor Mrs. Moore and Councillor Hill-Willis. It appeared to the police that the Chairman had been advised by Councillors Rose and Boothman to call together and consult members of all three parties. Inspector Tapp very soon came to the conclusion that there was nothing in the matter which called for police investigation and informed the Clerk to that effect.

158. On 6th April the *Evening Argus* carried the report of an interview with Councillor Fisk in which he was said to have stated that he had written a letter to the Director of Public Prosecutions on a "matter concerning the council and their activities". It can be imagined that those who read about Councillor Fisk's letter inferred that the activities of which he complained must have been criminal in character if it was necessary for them to be drawn to the attention of the Director of Public Prosecutions.

CHAPTER 13: THE CHAIRMAN'S "STATEMENT OF CONFIDENCE"

159. From the foregoing recital it can be imagined that the Council meeting to be held on 6th April was likely to be stormy. On 5th April the Chairman saw the Clerk in his office in order to discuss how a situation which he thought was rapidly getting out of hand might be contained. Councillor Fisk was also present during the long conversation which took place. Towards the end of this conversation the Clerk said that if the Chairman was prepared to sign a statement of confidence in the Clerk, he thought the problem could be solved. He then produced the following statement, which he had previously prepared:—

"I, Herbert Eric Horsfield, C.B.E., M.C., J.P., Brigadier, Chairman of the Bognor Regis Urban District Council, hereby state that I have every confidence in the professional ability, personal character and actions of the Clerk of the Bognor Regis Urban District Council, Mr. Paul Smith, LL.B.

I would like to say openly that if, through inadvertence or otherwise, I have at any time given the impression that I have any criticism of Mr. Paul Smith or the job he is doing in Bognor Regis, I would like to correct this and apologise accordingly."

160. The Chairman, not surprisingly, refused to sign the statement as it stood. However, he eventually agreed to sign the statement after the second paragraph had been omitted and he had substituted the word "work" for the word "action" and had added "and his department" to the end of

the last line of the first paragraph. The statement he signed therefore, read as follows:—

"I, Herbert Eric Horsfield, C.B.E., M.C., J.P., Chairman of the Bognor Regis Urban District Council, hereby state that I have every confidence in the professional ability, personal character and work of the Clerk of the Bognor Regis Urban District Council, Mr. Paul Smith, LL.B., and his department".

161. The fact the Chairman was prepared to sign this statement, having regard to the terms of the document put before him by the Clerk, is indicative of the lengths to which Brigadier Horsfield was prepared to go in order to achieve a working relationship. He asked the Clerk for his part to try to get on with Councillors and cease issuing press statements. The Clerk assured him that he would do his best, and asked the Chairman to issue the "statement of confidence" to the Press. The Chairman in reply said that he would make some sort of press statement but wanted to think the matter over and would let the Clerk know what he had decided the next day. He did so and the terms of the statement he intended to make appeared to satisfy the Clerk.

162. To the Chairman's astonishment he found that when his statement was published in the newspaper there appeared beside it a statement issued by the Clerk, in which he gave his version of the situation and the terms of the Chairman's "statement of confidence". At the beginning of this long press release the Clerk disclaimed any intention of adding fuel to the fire. I am told that his statement in fact did just that and that the Chairman felt that the Clerk had let him down badly.

CHAPTER 14—THE COUNCIL MEETING OF 6th APRIL

163. On 1st April a Special Meeting of the Finance and Rating Committee—to which six Councillors who were not members of the Committee were admitted by permission—was held to consider the following items:—

- (1) to consider as a matter of urgency as the Council's Establishment Committee the second paragraph of a letter received by the Chairman of the Council and public comments in the Press involving officers of the Council; and
- (2) to consider future policy concerning Press conferences.

This Committee was advised by the Clerk that their delegated powers, whatever might have been the past practice, did not permit them to discuss the items on the Agenda, and the discussion was therefore limited to the procedure to be adopted at the Special Meeting of the Council called for 6th April, and to the second item. As to the latter, the Committee's recommendation was as follows:—

- that (1) apart from personal statements, all Council policy statements to the Press should in future only be made by the Chairman of the Committee concerned with such policy, together with the appropriate Chief Officer and the Clerk of the Council; and
- (2) for a trial period of six months, accredited representatives of the Press be admitted to all meetings of the Council's Committees.

164. At the Special Council Meeting on 6th April, the Council first approved the Committee's recommendation of 1st April with regard to press statements and then considered paragraph 2 of Mr. Campion's letter of 23rd March. The discussion was opened with a statement from the Chairman, who regarded himself as personally impugned by the letter. He described the grumbles he had heard about the administration since September, how he had referred specific complaints to the Clerk, his decision to hold the "Tea Party" meeting after discussing the matter with his Vice-Chairman and then gave an account of what occurred at the meeting. He also said that he had full confidence in the ability of the Clerk, that he knew the Clerk and the staff under him worked very hard, and that he had signed a statement to that effect. The "Statement of Confidence" surprised some members and in answer to questions the Chairman denied that he had been under any pressure to sign the statement. Until then the meeting had been in public. The Council adjourned the remaining item on the Agenda—to consider the general administration and conduct of the local authority—for consideration in private as a committee of the full Council, but before doing so passed a resolution sympathising with the Chairman and expressing confidence in the manner in which he had dealt with the situation.

165. After prolonged discussion, the committee came to the conclusion that the best method of dealing with the situation would be to arrange some form of independent Ministerial Inquiry, and recommended:—

- that (1) the Minister of Housing and Local Government be asked for advice on the most expeditious way of carrying out an Inquiry into the general administration and conduct of the local authority and
- (2) the Clerk of the Council be authorised to obtain Counsel's opinion of the Council's position with regard to the member of the public referred to (by which they must have meant Mr. Campion).

This recommendation was approved by the Council when it went into public session again.

CHAPTER 15—THE CLERK'S PRESS STATEMENTS

166. After the Council meeting on 6th April, Mr. Smith issued the press statement referred to in Chapter 13. This appeared, apparently verbatim, in the *Evening News* on 7th April. On 8th April the *West Sussex Gazette* carried a report of a statement issued by the Clerk which differed materially from that of the previous day and included some observations on section 76; after a reference to the police enquiries into allegations that Council members might have abused their position for gain, the statement was reported as follows:—

"In my opinion this particular section of the law is far too half-hearted in view of the gravity of the offence. It only relates to offences committed during the six months preceding the issue of the Summons, so that if it is more than six months since a Councillor failed to declare his interest, he has got away with it. It is also no bar on a Councillor continuing to hold office. The maximum penalty is a £500 fine (sic)."

(The maximum fine is in fact £200).

167. On 9th April the *Bognor Regis Observer* carried the same statement as that reported on 7th April by the *Evening News*. On 17th April the *Bognor Regis Post* carried another variant of the statement released by the Clerk. After stating that one of Mr. Smith's intentions in giving the release was to clear away some erroneous impressions about section 76, the statement went on:—

"Its intention is clearly that no Councillor should put himself in a position where his public duty and his private interest would clash. We must not forget that the Councillor is a trustee bound to safeguard the interests of the ratepayers. Like all trustees, he has big responsibilities and must not abuse his position for his own gain. When a Councillor does abuse his trust this must be a very serious matter because the public confidence in the impartiality and honesty of local government and in the honesty of his fellow Councillors is undermined. It is against this evil that section 76 is directed."

Councillors felt that this statement was totally unnecessary and calculated to keep them under suspicion; it was the subject of a Notice of Motion on 2nd April.

168. It is perhaps also worth reproducing two further paragraphs from this newspaper article:—

"Regarding the sea front development, he (Mr. Smith) states that he has been very concerned at the slowness with which such development has been carried out in the past and with the management of the properties owned by the Council. He had urged the need for proper estate management.

"Mr. Smith declares himself opposed to the idea of appealing to the House of Lords about the Felpham sea wall decision. Moreover, he states that he had advised the Council not to make its unsuccessful appeal against the High Court action."

CHAPTER 16—ADVICE FROM THE MINISTRY

169. Following the Council resolution on 6th April, the Clerk sent a letter to the Ministry on 7th April, as follows:—

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,
Bognor Regis,
Sussex.
7th April, 1965.

Madam,

Appointment of Inspector—Ministry Inquiry
Bognor Regis Urban District Council

With reference to conversations about the above matter which I have had with Miss Fox, and with Mr. Waddell and the Press cuttings forwarded to him, my council last night passed the following resolution:—
That the Minister of Housing and Local Government be asked for advice

on the most expeditious way of carrying out an Inquiry into the general administration and conduct of the Local Authority, and he be asked to authorise expenditure on such an Inquiry.

I should be glad if you could let me have your comments and advice on this matter.

In order to further assist you I enclose copies of the Agenda, Minutes and report submitted to last night's council meeting, together with copies of correspondence previously considered at the Special Meeting of the Council's Finance and Rating Committee on the 1st instant.

I am, Madam,

Your obedient servant,

PAUL SMITH,

Clerk of the Council.

Dame Evelyn Sharp, G.B.E.,
Permanent Secretary,
Ministry of Housing and Local Government,
Whitehall,
London, S.W.1.

170. To this letter, the Permanent Secretary, Dame Evelyn Sharp, replied on 14th April as follows :—

Ministry of Housing and Local Government,
Whitehall,
London, S.W.1.

April 14th 1965.

Dear Sir,

In reply to your letter of April 7th about the possibility of an Inquiry into the general administration and conduct of the local authority, it would be helpful if the council could appoint a deputation to come and explain what are the matters it is thought ought to be inquired into, and generally the Council's reasons for suggesting that an Inquiry should be held.

If the council would be willing to do this I would be very glad to meet their representatives; and perhaps you would get in touch with my secretary to fix a time mutually convenient.

Yours faithfully,

E. A. SHARP,

(Dame EVELYN SHARP).

The Clerk,
Bognor Regis Urban District Council.

CHAPTER 17—THREATS OF LEGAL PROCEEDINGS

171. On 7th April Solicitors acting for the Clerk wrote to Councillor Rose stating that they had instructions to issue a writ for slander if Mr. Rose failed to make a public retraction of certain alleged statements and to pay damages.

172. On 13th April similar letters were sent to Councillors Boothman and Vincent.

173. On 9th April the Clerk sent a warning letter to all Councillors and this is reproduced below :—

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,
Bognor Regis,
Sussex.

9th April, 1965.

Personal

Dear Councillor . . .

Alleged Administrative Grievances

Following the recent Council meeting to consider the general administration and conduct of the Local Authority and the various slanderous and untrue statements which have been made relating to myself, I think it proper that I should let you know that I am making no further comment about these matters for the time being pending the legal actions which I am taking against the persons concerned. I have decided to take legal action with extreme regret, but it now seems to be the only way in which these particular facts can be decided in a Court of Law—and the wrongs put right.

It may be opportune for me to point out to each Councillor that so much has been said already which is defamatory, that each Councillor should be on his guard to make sure that there is no repetition of what has been said, otherwise this will only render the situation even worse for the persons concerned.

Yours sincerely,

PAUL SMITH,
Clerk of the Council.

174. On 26th April Solicitors for Councillor Rose wrote to the Clerk reserving the right to proceed for defamation in respect of certain of the Clerk's press statements.

175. I understand that up to the commencement of the Inquiry no writs had been issued.

176. The next Chapter in point of view of time so far as the Council were concerned relates to the arrangements for a deputation to visit the Ministry and the consequences of that visit. Before dealing with this I think it necessary to say something further about the police investigations.

CHAPTER 18—THE POLICE INVESTIGATIONS (PART II)

177. The police enquiries were initiated by a letter from the Director of Public Prosecutions on 5th January; they were concluded on 17th June and a full report of the investigation has been made. The rules as to Crown Privilege did not permit me to see this report, but I was assured by Detective Inspector Tapp that as a result of a most thorough investigation the only matter on which the Director of Public Prosecutions authorised proceedings was the prosecution of Councillor Boothman.

178. The matters which the police were authorised to investigate by the Director were those concerned with possible offences against section 76. These concerned the four Councillors named in the four complaints made before Christmas. Three other matters were also the subject of police investigations and can be described as the Ice Cream Concession, which only concerned Councillor Vincent ; Butlins, which Inspector Tapp told me concerned no member of the Council ; and the alleged "Criminal Conspiracy". It is not necessary for me to go into any detail in relation to these investigations. I received a great deal of information from Detective Inspector Tapp and it is sufficient to say that, with regard to the investigations which were requested, the Director of Public Prosecutions decided to proceed only against Councillor Boothman ; with regard to the Ice Cream Concession, certain apparent irregularities (referred to in Chapter 4(2)) which had been reported to the police were satisfactorily explained ; and within a fortnight of Councillor Kingsbury and the Clerk first raising the possibility of a "Criminal Conspiracy" with Detective Inspector Tapp, the latter was satisfied that there was nothing for the police to investigate and told Mr. Smith so. The remaining matter, Butlins, was investigated at the request of the Clerk, who apparently felt that there were unsatisfactory features about the negotiation of the lease with Butlins, which should be looked into. This request to the police was made without the authority of and unknown to the Council or the Chairman. This last investigation was incomplete at the date of the Clerk's dismissal and has been discontinued. There were no investigations from the police point of view in respect of any Councillors other than those named in the pre-Christmas complaints, and with regard to the two whom I have not named the police reported to the Director of Public Prosecutions on 17th March that there was no evidence against them. Throughout the enquiries the police were given the fullest co-operation by the Clerk and his staff, and all files and minutes which they wished to see were made available to them.

CHAPTER 19—EVENTS IMMEDIATELY PRIOR TO THE VISIT OF THE DEPUTATION

179. The monthly meeting of the Council was held on 27th April. On the agenda there were two Notices of Motion ; the first invited Councillor Fisk to explain what steps he had taken to correct statements "reflecting on the dignity and integrity of the Council" attributed to him in the Press. In reply, Councillor Fisk was quite unrepentant. The second Motion, which was moved by Councillor Britton and seconded by Councillor Reynolds, invited the Clerk to correct the implications and inferences which could be drawn from his statement, quoted by the press earlier that month, on the subject of section 76. In moving the Notice of Motion, Councillor Britton said he thought the Clerk's statement on 23rd March about the police investigations was quite unnecessary and urged the Clerk to refrain from issuing statements to the Press. The Clerk replied that he had made the announcement on 23rd March in the interests of the Council and the public since the police were going to and fro in the Town Hall and the Press were asking him questions. He then made a long, prepared statement on the subject

of section 76, which was largely an extension of the remarks he had previously made to the Press on the subject. His statement was recorded in the Minutes and reported in the *West Sussex Gazette* of 29th April.

180. The meeting then went on to consider a Motion, proposed by Councillor Reynolds and seconded by Councillor Rose, that

"As a matter of urgency a deputation be formed consisting of the Chairman and Vice-Chairman of the Council, together with Councillors Anderson, Mrs. Moore, Phillips and Vincent and the Clerk of the Council be instructed to contact the Ministry by telephone tomorrow to arrange a meeting as early as possible".

181. It was agreed that the Motion and a general discussion of the matter should be referred to a Special Purposes Committee, which should begin as soon as the Council meeting ended; the Committee was empowered to take action.

182. The Special Purposes Committee decided that it would not be in the public interest if their discussion were publicised and accordingly, the press and the public were excluded from the meeting. During the discussion which followed Councillors asked if a reply had been received from the Ministry of Housing and Local Government to the letter which the Clerk had been instructed to write on 6th April requesting the Minister's advice as to the most expeditious way of carrying out an Inquiry; they felt that a reply was overdue. The Clerk told them that he had not had a reply but that that day he had spoken on the telephone to an Assistant Secretary at the Ministry, who had told him that the Ministry were prepared to receive a deputation; that during their conversation no date for the deputation's visit had been suggested; and that he was waiting for written confirmation of the telephone call. (Before the meeting began Mr. Smith had told the Chairman the substance of his conversation with the Assistant Secretary.) Councillor Rose then said that he had been informed that the Ministry had replied to the Clerk's letter of 7th April. Faced with this, the Clerk told the meeting that he had received a private and confidential letter from the Ministry but he was not prepared to disclose either its contents or the date on which he had received it. The Committee then insisted that steps should be taken to secure an appointment for a deputation to visit the Ministry within seven days. The Clerk said that he would be unable to accompany the deputation because he would be away during the next week but the Assistant Clerk (Mr. Broughton) would go in his place.

183. The next day—28th April—the Chairman asked Mr. Broughton what had been done about arranging an appointment for the deputation. On being told that nothing had been done the Chairman told the Assistant Clerk to telephone the Ministry. This was done and as a result of that telephone conversation and the letter the Council sent by hand to the Ministry that afternoon, an appointment for the deputation was made for 6th May.

184. Mr. Broughton was mistaken when he told the Chairman that nothing had been done about arranging an appointment for the deputation because—and this was unknown to him—the Clerk had written no less than three letters to the Permanent Secretary on 28th April.

(a) *The Clerk's Letters of 28th April to Dame Evelyn Sharp*

Letter 1

185. This was an official letter marked "Personal and Most Urgent", asking for an appointment for a deputation of seven members to be received "before the end of next week". It indicated that later in the day a further letter would be sent giving a "short history of the events preceding my Council's decision to ask the Minister to approve the holding of a Ministerial Inquiry."

Letter 2

186. This had been promised in the first letter and was marked "Personal and Confidential". It enclosed:—

- (a) chronological statements of the positions that Councillors Boothman and Vincent had held since they became Councillors;
- (b) copies of the three anonymous letters of complaint to the Director of Public Prosecutions;
- (c) the Clerk's statement on 23rd March about police investigations;
- (d) Mr. Campion's letter of 23rd March;
- (e) Councillor Kingsbury's two statements to the police;
- (f) the *Evening Argus* of 29th March containing the Liberal statement;
- (g) a verbatim transcript of the Council meeting held on 6th April;
- (h) copies of a statement made by the County Clerk and two statements on the same topic from two of Mr. Smith's staff;
- (i) a list of Council members with their political labels.

The letter was very long and was mainly a justification of his own actions.

Letter 3

187. This was a manuscript letter in which Mr. Smith explained first, that he would not be able to accompany the deputation because he was bedridden with bronchitis; it then went on to introduce the deputation by saying that four of its members, whom he named, were being investigated by the police "in connection with section 76 and other matters", and that three other Councillors—whom he also named—were being investigated "to a lesser degree". Of the seven named, four had never at any time been the subject of police investigations, as I ascertained from Detective Inspector Tapp; and another was one of two in respect of whom by 17th March the Director of Public Prosecutions had decided that there was no evidence of misconduct.

188. The letter went on to complain that Councillor Rose appeared to have been told by the Ministry of the contents of Dame Evelyn's letter of 14th April to the Clerk which was marked "Personal" and had been seen only by him.

CHAPTER 20—THE DEPUTATION VISITS THE MINISTRY

189. The visit took place on 6th May without the Clerk but with two members of his staff in attendance. The situation facing the Council and the events leading up to it were outlined by the Chairman, who also gave the

reasons why it was felt that only a Ministerial Inquiry could meet the situation. The Permanent Secretary explained that the Minister had no power to hold an inquiry into the general affairs of the council, but that the council itself could hold an inquiry if the Minister's consent were given to the expense of doing so. It was agreed that nothing should be said or done about the Inquiry until after the Council elections, which were to be held on 13th May.

190. The Chairman also enquired whether the Ministry had received a letter from the Clerk on or about 7th April and whether a reply had been sent. The members were shown the Secretary's reply of 14th April.

191. The deputation also took the opportunity to enquire what progress had been made towards holding the public local inquiry into the Council's main drainage proposal. They were told that the Ministry had been ready "to go to inquiry in February but the Clerk asked us to hold our hand. We are still waiting to hear from them". This came as a complete surprise to the Councillors since the Council was anxious that the inquiry should be held as soon as possible. The Council's officers were then called in (at the deputation's request they had not been present at the earlier part of the meeting). The officers were asked if they knew why the Clerk had wanted the inquiry into the sea outfall postponed; they said they did not know but surmised that it was because it was not possible to prepare the Council's case in time.

192. (According to the contemporary records kept by the Ministry, the full facts of the conversations between the Clerk and the responsible officers at the Ministry on the subject of the inquiry, are as follows:—

The Clerk telephoned the Ministry on 26th February. He was told that the Ministry were ready to despatch letters to the Council and objectors to the proposed outfall giving notice of the Minister's intention to hold an inquiry into the scheme. When he was told this the Clerk is recorded as saying that the Council were split on the relative desirability of a sea outfall and an inland disposal works, possibly in conjunction with other local authorities; the majority of Councillors were in favour of the former scheme by one vote. Council elections were soon to be held and the incoming Council might prefer an inland works, thus making the proposed inquiry abortive. It was agreed that the despatch of the letters should be delayed.

On 18th March the Clerk visited the Ministry at his own request. He said that a "Clean Sea" Committee had been formed to campaign against the scheme. He was not sure that the merits of the inland disposal works had been given adequate consideration and was uneasy about the premises on which the Council's decision to proceed with the sea outfall was based. A meeting of the appropriate Council Committee had therefore been arranged at which the Engineer and a representative of the Consultants would be questioned. As a result of the meeting the Council's policy might be changed. He asked and the Ministry agreed that no action should be taken by the Department until it was heard that the Council wished to proceed with the scheme.

No more on the subject had been heard from the Clerk after 18th March.

The Secretary was not aware of these facts when she met the deputation. Her only information was that the Clerk had asked the Ministry not to go ahead with the inquiry until they heard from him.)

CHAPTER 21—THE DEPUTATION REPORTS

193. The deputation prepared a report which was presented to a meeting of the Council on 11th May; this meeting was not attended by the Clerk, who had telephoned to say that he was ill. Despite the fact that all the members of the deputation had subscribed their names to the report, it contained a most unfortunate inaccuracy, namely, that the Permanent Secretary had stated to the deputation that the Clerk had been told by the Ministry that they were ready to hold the inquiry into the proposed sewerage scheme on *15th February*; the Secretary had, in fact, said no such thing. The first reaction to this was that of the Chairman of the Public Health Committee, who considered that the failure of the Clerk to inform his Committee that the Ministry were ready to hold the inquiry on 15th February was a "grave dereliction of duty". A number of Councillors felt that if, indeed, the Council's case could not have been prepared in time, the Committee or its Chairman should have been informed before the Clerk asked the Ministry to postpone the inquiry. It was also recalled that at the March meeting of the Public Health Committee, when asked to report progress on the inquiry, the Clerk had said that he thought the Council had a weak case, and when asked further why he had not said so before, replied that he had not been asked.

194. Further, as to the letter of 14th April from the Permanent Secretary, it was not understood how the Clerk's suppression of the letter, which was obviously official, even if the envelope had been marked "Personal", could be justified. (Mr. Smith's explanation to me of his action in withholding the letter was that he felt the situation by that time was such that he had to "dig his heels in somewhere".)

195. The Council therefore decided to draft a series of questions for the Clerk to consider and answer at a meeting of the Council to be held on 14th May; the eight questions were as follows:—

"1. Will the Clerk permit the Council or the Chairman and Vice-Chairman to have a sight of the letter marked Personal or Private and Confidential addressed to him by the Ministry of Housing and Local Government in connection with the visit of the deputation?

Note. This is the letter referred to at the Council meeting on 27th April 1965.

2. Will the Clerk similarly permit sight of the letter from the Ministry of Housing and Local Government dated 14th April 1965, a copy of which was shown to the deputation by the Permanent Secretary on the occasion of their visit?"

(There appears to have been some confusion here; I think that both questions 1 and 2 relate to the Permanent Secretary's letter of 14th April.)

" 3. Will the Clerk say the date and time of the telephone conversation with the Ministry to arrange the visit of the deputation and the name of the person with whom he had the conversation ?

4. Will the Clerk say why no report upon this telephone conversation and the letter—indicating that the deputation would be received—was made under an appropriate item on the Agenda for the Council meeting on 27th April 1965 ?

e.g. (i) Matters arising from the minutes.

(ii) Correspondence.

(iii) Reports of Chief Officers.

(iv) Communications received by the Chairman.

5. Why was no report made by the Clerk to the Council as to the willingness of the Ministry of Housing and Local Government to hold an Inquiry into the Sewerage Scheme on 15th February 1965 ?

6. Why did the Clerk not seek the instructions of the Council or the appropriate Committee as to the action to be taken in respect of question 5 ?

7. Has there been any further communication from the Ministry as to a date for the inquiry and has any approach been made to the Ministry by the Clerk in this connection ?

8. Why were the Public Health Committee told in the circumstances arising from question 5 that the Ministry would let the Council know when they were ready for an Inquiry ?"

CHAPTER 22—FURTHER PRESS STATEMENTS BY THE CLERK

196. After hearing what had been reported by the deputation and what had been said in Council on 11th May in relation to it, the Clerk issued a statement to the Press on 12th May, which was published in the *Daily Telegraph* on 13th May. In this he is reported to have accused some members of the Council of deliberately using undemocratic methods in a calculated attempt to smear his name and denigrate the work of those in his department. He refuted the allegations made at the meeting of 11th May, and said that he would make a full reply. He added that to the best of his knowledge it was untrue to say that there could have been a local Inquiry on 15th February into the proposed sea outfall, and that he had written to Dame Evelyn Sharp about this.

197. The statement, as reported in *The Times*, went on to say " There have been a number of disquieting features about the conduct and administration of this local authority in recent months, and it would be quite improper and morally wrong as well as financially irresponsible to proceed with a public inquiry by the Minister into the sea outfall scheme." A somewhat fuller statement was made to the *Bognor Regis Observer* which reported the Clerk on 14th May as saying that he felt the pattern of conduct he had noticed in the last month or two was perhaps due to the fact that he had given positive assistance to the police in their enquiries into the activities of certain Councillors. It might also be partly due to his policy of giving priority

to sea front redevelopment by letting all the empty premises. "It also seems I have trodden on so many toes when trying to point out to the Council, over the business of the sea outfall scheme, the need for objectors and the public to be given all the facts. As far as I am concerned I will carry on doing what I consider to be my duty; that is not merely to act as a local government officer, but in my position as Town Clerk to stand between the ratepayers and the Councillors. . . .".

CHAPTER 23—CORRESPONDENCE BETWEEN DAME EVELYN SHARP AND THE CLERK

MAY 6th TO MAY 13th

198.

Ministry of Housing and Local Government,
Whitehall,
London, S.W.1.
6th May 1965.

Dear Mr. Smith,

Thank you for your letter of April 28th.

I am sorry you are ill. I met the council's representatives today and they explained their reasons for wanting an inquiry into the administration of the council's affairs. It was left that we would consider what had been said and send a letter in due course.

I do not understand your suggestion that my letter of April 14th was marked Personal. My carbon is not so marked and was not so intended. The letter was in reply to your official letter of 7th April and was intended for the council—as indeed I would have thought must have been plain from its contents. There was nothing private about it, and when Councillor Rose telephoned to ask what was happening on your letter he was informed that a reply had been sent.

Yours sincerely,

E. A. SHARP.

P. Smith, Esq.,
115 Aldwick Road,
Bognor Regis.

* * * * *

199.

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,
Bognor Regis, Sussex.
10th May 1965.

PERSONAL AND CONFIDENTIAL HV.2234.

Dear Dame Evelyn,

Thank you for your letter of the 6th May. You may be interested to know that a special meeting of my Council has been called for Friday next, at which the deputation who met you will be reporting the results of their meeting, to the council.

I note what you say about Councillor Rose and his enquiry and, as your Secretary will have explained, your letter to me to which it referred was in fact marked "Personal" on the envelope.

I was somewhat surprised to hear from my Assistant Clerk and Assistant Solicitor that it was apparently suggested at the meeting that I had informed the Ministry that this Council wished to delay the holding of a Public Inquiry concerning the sewerage outfall proposal. This is, of course, quite untrue. The conversations which I had with Mr. Lang of your Ministry were directed to the following points:—

1. The necessity for either two Public Local Inquiries to be held, one a Planning Inquiry and the other an Engineering Inquiry or, alternatively, a Joint Inquiry with two Inspectors, for the Planning and Engineering points.

2. To ascertain whether the Ministry were quite happy to hold an inquiry on the basis of the engineering and health evidence so far obtained by the Council and whether, in the light of modern scientific advancements in this field, it was not now a matter for concern nationally that no more sea outfall sewage schemes should be permitted, particularly having regard to the legislation on this matter in Scotland, and

3. That the Ministry should bear in mind that in view of the fact that this proposal of Bognor Regis Council had been carried by a narrow majority and that there was a great deal of feeling in the town against the proposal, as to whether it would be wiser for an Inquiry to be held when the new Council had taken office.

Looking through my correspondence on this matter, I find that I was in fact informed by your officers at the Ministry, in December, that there would be no Inquiry held before March of this year, and this information I passed to my Council at a Council meeting in December. (See my minute attached.)

Perhaps I should add that I have to-day received a certain amount of pressure from the press, asking why the officials were excluded from the meeting with you. It also appears that the press are suggesting informally that Councillor Rose has, through political or family contacts, access to confidential information at the Ministry. This I find very hard to believe, but it is nevertheless on record and I think you should be made aware of it.

With thanks,

Yours sincerely,

PAUL SMITH,

Clerk of the Council.

Dame Evelyn Sharp, G.B.E.,

Permanent Secretary,

Ministry of Housing and Local Government,

Whitehall,

London, S.W.1.

* * * * *

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,
Bognor Regis,
Sussex.

PRIVATE AND CONFIDENTIAL F(H)K.Pr.

12th May 1965.

Dear Dame Evelyn,

Inquiry into the Affairs of the Council

Last night, at a Special Purposes Committee Meeting, when I was unable to be present owing to ill health, the Councillors who formed the deputation to yourself on Thursday of last week submitted a report of what had transpired at their meeting with you. I enclose a copy of the report and as I am being required to answer to the Council on Friday next, the 14th instant, upon the points concerning myself arising from the meeting with you, I would be very much obliged if you would kindly inform me whether you consider the report is a fair and accurate record of what transpired and whether there is anything which was discussed which you feel ought, perhaps, to have been included in the report.

I am very sorry to trouble you further, but should be much obliged if you could do this so that your reply reaches me in Friday's post, in time for the meeting.

Yours sincerely,

PAUL SMITH,

Clerk of the Council.

The Secretary,

Ministry of Housing and Local Government,

Whitehall,

London, S.W.1.

* * * * *

Ministry of Housing and Local Government,
Whitehall,
London, S.W.1.

13th May 1965.

Dear Mr. Smith,

I have your two letters of 10th and 12th May. I do not know why they are labelled Personal and Confidential, and I find this embarrassing. My replies at any rate are not private. The only reason why my secretary marked Personal on the envelope containing my letter to you of 14th April was so that it should reach you quickly and not be delayed in the machine.

As regards the public local inquiry into the sewage scheme, when the council's representatives asked me about this I had a request for information telephoned to the responsible Branch and the message I got, which I read aloud, was:

"We were ready to go to inquiry in February but were asked by the Clerk to hold our hand. We are still waiting to hear from them."

I do not know where the reference to 15th February came from; I did not say it and nobody here has ever mentioned it as far as I can trace. More important, having now looked at the file I realise that the message I had about being ready to go to inquiry in February was not accurate; we were ready then to inform the council and the objectors that an inquiry would be arranged. It is correct according to our record that you asked that we should defer doing so.

On this point therefore the note of the interview which you forwarded is wrong in suggesting that I mentioned 15th February; and in any case what I said to the council's representatives was not quite accurate.

I am writing to your Chairman to correct what I said.

There are two other points in your letter of 10th May to which I should refer. It was the wish of your council's representatives that officials should not be present at the start of the discussion with me.

As far as I am aware there is no truth whatever in the suggestion that Councillor Rose has access to confidential information in the Ministry. He has once or twice telephoned to ask about the state of business between the Department and yourself, and since there was nothing confidential about this he has been given the information he required.

The trouble seems to be that your council, or some members of it, have felt that you did not always let them know what you were doing. I do not know the rights and wrongs of this; but so far as we are concerned there does not appear to be anything in our discussions with you which we would wish to regard as private.

Yours sincerely,

E. A. SHARP.

Paul Smith, Esq., LL.B.,

The Clerk,

Town Hall,

Bognor Regis,

Sussex.

* * * * *

CHAPTER 24—THE COUNCIL ELECTIONS AND THE COUNCIL MEETING OF 14TH MAY

202. Polling took place on 13th May and the Clerk acted for part of the day as Returning Officer. All the Councillors who stood for re-election were returned to the Council, including Messrs. Boothman and Vincent.

203. Prior to the Council meeting on 14th May, the Chairman had been informed by Dame Evelyn Sharp that the facts in respect of the Clerk's discussions as to the date of the sewerage inquiry were that he had telephoned the Ministry on 26th February and was told that the Council and objectors were about to be informed that an inquiry could be arranged and that the Clerk had suggested that notification should be deferred until the end of March. He had then called on the Ministry on 18th March, explained that he was uneasy about the strength of the Council's case and that there was to be a meeting of the appropriate Council Committee to consider this further, and suggested that no action should be taken towards arranging an inquiry until it was clear that the Council wished to proceed with the sea outfall scheme. I have found nothing to indicate that the Committee were in any doubt about proceeding with the scheme or wished for further time to consider their decision.

204. On the day before the meeting the Deputy Clerk, Mr. Sheppard, who since his appointment had found himself in an exceedingly difficult and invidious position, took the list of eight questions (see paragraph 195) to the Clerk so that he should be ready to answer them at the Council meeting the next day.

205. I have been unable to gain any coherent impression of what occurred at this Council meeting except that it resolved to make an alteration of the Minute of the Council meeting on 27th April recording the Clerk's prepared statement on section 76. They did this because the view was taken that the Clerk, far from correcting the unfavourable inferences which Councillors thought would be drawn from his earlier Press statement, had merely taken the opportunity to reiterate and extend what he had said before. Mr. Smith does not appear to have made any detailed answer to the eight questions put to him by the Council, and he told me that he was given no opportunity of doing so.

206. On the 18th May it was reported in *The Times* that the Clerk alleged that the deputation's report was "grossly inaccurate and ill-founded", the proof of this being the letter from Dame Evelyn Sharp stating that 15th February had not been mentioned as a date when the inquiry into the sewerage scheme could have been held. This, he said, completely vindicated the position he took when rebutting the allegations against him. The report also carried a statement from the Chairman, who confirmed the Clerk's denial that the Council had voted to dismiss him and said that the Clerk was asked questions and gave replies.

207. While the Secretary's letter could be said to have vindicated Mr. Smith of the charge that he had been guilty of gross dereliction of duty in not informing the Council that a public local inquiry into the sea outfall could have been held on 15th February, to my mind it did not vindicate Mr. Smith's action either in suppressing the Secretary's letter of 14th April or in securing a postponement of the inquiry into the sea outfall scheme when he knew that his Council were anxious that it would be held with the least possible delay. It is apparent that the mistake as to the date of 15th February was quite irrelevant to the substance of the complaints on these two matters.

208. On 17th May the Clerk wrote three letters to the Minister of Housing and Local Government. On the same day, being then absent from his Council duties on medical advice, he travelled to London to see a specialist and took the opportunity to seek, without success, a meeting with the Minister. Before calling at the Ministry he handed, or showed, to a reporter of the *Daily Telegraph* a long letter to the Minister, the substance of which was published in that paper on 19th May. The letter asked the following questions:—

(1) The Minister had given a loan sanction for exploratory work for the proposed sea outfall; by doing so had he not prejudiced his consideration of the Council's associated planning application?

(2) Was it not true that on 6th May the Ministry—

(a) had given inaccurate and misleading information to the Council's deputation; and

(b) had acquiesced to the exclusion of the Council's officers from the meeting?

(3) Would the Minister find out why confidential letters from members of the public, in which they complained about the activities of certain Bognor Councillors as regards section 76, had been disclosed, thereby prejudicing police investigations and embarrassing the complainants?

(4) As regards the liabilities of section 76, was it the Minister's view that Councillors who were businessmen should be given preferential treatment to Councillors who were council-house tenants?

(5) If not, would the Minister find out why, despite the fact that police investigations had been completed for some time, the Director of Public Prosecutions did not authorise proceedings against a Bognor Councillor until six months after the original complaints were made to him, although such proceedings must be brought within six months or not at all?

(6) Would the Minister consider introducing legislation—

(a) to extend from six months the period during which prosecutions could be brought for offences under section 76;

(b) to disqualify permanently from the Council office those found guilty of offences under section 76;

(c) to protect from summary dismissal Town Clerks and Clerks, who in the execution of their duty, inform the Director of Public Prosecutions of offences under section 76 committed by members of their Councils?

(7) The Ice Cream Concession had always been held by agreement by a Councillor until, at the Clerk's insistence, it was put out to public tender. Would the Minister find out why his District Audit service had not ensured that the tender was advertised before the Clerk intervened? (In connection with this question, the reiteration of the past inaccuracy with regard to Mr. Vincent being the concessionaire will be noted. The latter part of the question seems inconsistent with Mr. Smith's statement (see paragraph 67) that it was the District Auditor who said that the concession must go to tender.)

209. The article in the *Daily Telegraph* also included a statement that the Minister was likely to order an inquiry into Bognor's affairs. As the Council were awaiting a letter on this question from the Ministry, the Chairman wrote to the Minister expressing the Council's concern at what they read in the *Daily Telegraph* and asking, if the information in the newspaper were correct, what form the inquiry was to take. The Minister replied that his Ministry was not the source of this Press report and that the Council would shortly receive a letter on the subject of the inquiry.

CHAPTER 26—THE SUMMONSES AGAINST MR. BOOTHMAN

210. The culmination of the prolonged police inquiries was the issue on 15th May of two Summonses under section 76 of the Local Government Act 1933 against Councillor Boothman. They alleged, that, having an indirect pecuniary interest concerning the Beaulieu and Beaulieu Downs Hotels, he attended meetings of the Development Committee on 25th November and 8th December and took part in discussions thereon. The Summonses were heard at Arundel Magistrate's Court on 25th May, when the Clerk was a witness for the prosecution. Convictions were recorded on each Summons but an absolute discharge was granted. The prosecution made it clear, and the Bench accepted, that no question of dishonesty was involved. I understand that Mr. Boothman intends to appeal.

CHAPTER 27—LAST ATTEMPTS AT MEDIATION

(a) *The Vicar*

211. Before Mr. Smith took up his appointment he was introduced to a number of people; the object of these meetings was to give him some idea of the people and problems of Bognor. One of those he met, at the instigation of Councillor Boothman, was the Vicar of Bognor Regis, Dr. Snow. During this meeting, which appears to have taken place some time in May, 1964, many of the town's grumbles and problems of long-standing were discussed and it seems probable that Mr. Smith was given the impression that there was a number of matters which he should look into, and, perhaps, set straight. On another occasion, soon after Mr. Smith had taken up his post, he met Dr. Warren Browne and Dr. Snow and they talked about the Council's proposal to build a sea outfall. At this meeting Dr. Warren Browne made it very clear that he was much opposed to the Council's proposal and considered an inland disposal works preferable.

212. Dr. Snow was well known to nearly all the Councillors—many of them were members of his congregation—and he also came to know the Clerk well.

213. Towards the end of 1964 or the beginning of 1965, the Vicar began to hear rumours of disquiet and clashes of personality at the Town Hall. During the first three months of 1965, several Councillors came to see him—among whom were Councillors Boothman, Vincent, Fisk, Reynolds and Britton; they told him of matters that were worrying them and asked for

his advice. It also appears that the Clerk, accompanied by Dr. Warren Browne, came to see the Vicar after the Council meeting of 23rd March and told him about the meeting at the Chairman's house the previous Sunday. He saw Mr. Smith again, once again in the presence of Dr. Warren Browne, on a Saturday in May shortly after the Council had become aware that the Clerk had suppressed the Permanent Secretary's letter of 14th April. On that occasion the Vicar told the Clerk that he considered that he was approaching his objective along the wrong lines; he said that Mr. Smith had built up a legalistic relationship with the Council rather than a personal one and that he could have obtained his objectives, or a good part of them, by a different method and over a longer period of time. Dr. Snow told him that a number of the Councillors particularly resented the Clerk's statements to the press, which they felt should only be made with the approval of the Chairman of Committees, and he urged Mr. Smith to make a fresh attempt to come to terms with the Council. The Clerk thanked the Vicar for his advice but did not take it and, either then or, during a subsequent conversation with him, said that he would not "compromise" (whatever that meant), even if as a result he would be dismissed.

214. Despite this Dr. Snow believed it was worth making a last effort to achieve a rapprochement and he persuaded Councillors Fisk and Vincent and one or two other members of the Council to ask the Clerk to meet them informally. The meeting was arranged for a day a week or so before the Council meeting of 25th May. The Clerk agreed to attend but failed to turn up.

215. To the Vicar it seemed that the failure of this last attempt marked the "point of no return", since he felt that had the meeting taken place and a *modus vivendi* been found, it was likely that the rest of the Council would have welcomed it. As the Vicar saw it, the issue had become one of whether the balance of power was going to lie with the elected Councillors or the Clerk, and that if the Clerk would not "compromise" the Council had no choice but to dismiss him.

216. I have thought it right to make particular reference to the Vicar's evidence of the matters he felt able to discuss since he knew all the parties concerned, admired the Clerk and was able to view the developing situation impartially and with the sole desire of preventing a final rupture.

(b) *Dame Evelyn Sharp*

217. On 21st May, Dame Evelyn Sharp sent the following letter to the Chairman:—

Ministry of Housing and Local Government,
Whitehall,
London, S.W.1.
21st May 1965

Dear Brigadier Horsfield,

I have now discussed with the Minister the Council's request for advice on the most expeditious way of carrying out an inquiry into the general administration and conduct of the local authority, following the talk I had with representatives of the council on May 6th.

At the talk I explained that the Minister had himself no power to hold an inquiry, except in relation to particular functions of the Council. But the Council could hold an inquiry themselves, and the Minister would be prepared to give his consent under Section 228 of the Local Government Act 1933 to the necessary expenditure. I now confirm this.

I also said that the Department might be able to suggest the name of persons who might be suitable to hold an inquiry on the council's behalf.

On further consideration, however it seems doubtful whether an inquiry would be helpful in clearing up the difficulties with which, so far as we can judge, the council are faced. It seems that it is the relationship with their Clerk which is mainly troubling the council. In the circumstances it may be that the best plan would be for us to have a further talk, this time with the Clerk present, and see if we can identify the difficulties which have been experienced—and perhaps arrive at some conclusion about how such difficulties might be avoided in future.

If this course would be agreeable to the council perhaps the Clerk would get into touch with my office and arrange a suitable time.

Yours sincerely,

E. A. SHARP.

Councillor Brig. H. E. Horsfield,
C.B.E., M.C., J.P.,
Chairman's Room,
Town Hall,
Bognor Regis.

218. The Permanent Secretary's letter—which was heralded by the press as the Ministry's "peace plan"—was reported to the council at its meeting on 25th May. Mr Smith's rejection of the Secretary's offer of mediation—even as a partial solution to the problem—was notified through a press statement which appeared in the *Evening Argus* of 26th May, in which he is reported as saying that the Ministry would be inhibited by their recent attitude to Bognor's affairs, and the only course now open was for "a full impartial public inquiry to be held".

CHAPTER 28—THE FINAL STAGES

219. After the meeting of 14th May the understanding of the majority of the Councillors was that there was a "gentleman's agreement" that there should be no further Press statements on the question of an Inquiry into the affairs of the Council until a further communication had been received from the Ministry about what arrangements might be made for it. Despite this, statements from the Clerk appeared in the *Evening Argus* on 18th May and in the *Daily Telegraph* of 19th May to the effect that a public inquiry into the affairs of the Council should be held. This continued use of Press statements by the Clerk, as a means of by-passing the Council Chamber, together with the failure of the various attempts at mediation, had, I am satisfied, finally convinced a majority of the Council, that the Clerk did not acknowledge, and was unable to show, the loyalty to the Council that was expected of him and that he had left them with no alternative but to dismiss him.

220. It was therefore decided to include on the Agenda for the Council to be held on 25th May an item "To consider the conduct of the Clerk of the Council".

(a) The Council Meeting of 25th May

221. At this meeting, in accordance with Standing Orders, the public and the press were excluded since an officer of the Council was to be discussed. The Clerk did not attend the meeting on medical advice but Mr. Kennedy, the District Officer of N.A.L.G.O., was present on his behalf. (Apart from the Council meeting of 14th May, the Clerk attended no meeting of the Council after that of 27th April. I was informed that he was suffering from attacks of colitis and that his doctor had advised him that we should not attend.) A letter, dated 25th May, had been sent by the Clerk to all Councillors, in the following terms:—

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,

Bognor Regis, Sussex.

25th May, 1965.

Dear Councillor,

I regret that owing to my continued indisposition I shall not be at the meeting tonight and I would ask you to accept my apologies.

I have been informed that there is an item on the agenda "To consider my conduct". I have not been told any more about this item, otherwise I would have given you my detailed observations.

When you consider the matter, however, I would ask the Council to bear in mind the effect that the mere placing of such an item on its public agenda must already have had and the national publicity which will inevitably ensue.

Due to the various unjustified allegations which have been made against me by certain members of the Council, I have already been placed in a position where I have had to turn to the Press in order to publicise the real facts. This would never have been necessary had the Council followed normal democratic procedures of properly hearing the other side of the case before making accusations. I have latterly been forced into this position in the light of my experience where I made no public reply to the original "Star Chamber" accusations and in consequence I have never been given a chance to answer them; a point which seems rather hard when even criminals are given better treatment in this country.

In a way, the same position obtains with the item which is before you now, for no one has had the courtesy to see me to explain why "my conduct is to be examined". With the greatest respect, this is not the way in which a responsible Authority should work. If dissatisfied with an officer's conduct then it should first of all give its reasons—hear his case but make its decision and then, if it deems fit, give the matter publicity.

While I quite appreciate that Members' emotions have been severely tested recently, I would urge you to remember that the stand which I have taken over Section 76 is the right one. It is not that you "have to look over your shoulders" but that no Councillor must ever be placed in a

position where his public duty and his private pecuniary interests may clash, or even appear to clash. This is a basic fact. It is an example of the old maxim that "not only must justice be done but it must appear to have been done". For example, Councillors who are council house tenants are, throughout the country in general, debarred from discussing and voting on housing matters, even though their interests may be extremely remote and no greater than those of thousands of other tenants—but this is the law and this has to be observed. The publicity which the Press and the Television have given to the Section 76 situation in relation to the national picture is, in my view, the best possible protection for Councillors, for it shows clearly to the public that they are aware of the position and have nothing to hide.

I should mention that a number of informal approaches have been made to me recently, with no doubt the best of intentions, suggesting that I should "toe the line" and withdraw my active approach to certain matters, otherwise the alternative could be my dismissal. You will appreciate that I could not accept any such compromise or threat. I have a plain duty which I have tried to exercise, which is not only to see that the Council's decisions are properly implemented but that justice is done in all the Council's dealings according to my obligations as a Solicitor of the Supreme Court of Judicature.

My resolve to do this is only strengthened by the facts now emerging, which seem to show that the extraneous control of Councils which can normally be relied upon to be exercised by the Ministry of Housing and Local Government, by public audit and in certain circumstances, by the Director of Public Prosecutions, appears regrettably to have been absent in a marked degree in the past.

I would ask you to try and realise that a Town Clerk's duties extend much further than the very necessary direct administrative and committee work. He has a direct responsibility to the public and I quote the words of Lord Caldecott, C.J., from the Case of *Hurle-Hobbs ex. p. Riley*, 1944—"The office of Town Clerk is an important part of the machinery of Local Government. He may be said to stand between the Borough Council and the ratepayers. He is there to assist by his advice and action the conduct of public affairs in the Borough, and if there is a disposition on the part of the Council, still more on the part of any Member of the Council, to ride roughshod over his opinions, the question must at once arise as to whether it is not his duty forthwith to resign his office or at any rate to do what he thinks right and await the consequences. This is not so dangerous or heroic a course as it may seem. The integrity of the administration of public affairs is such that publicity may be safely relied upon to secure protection for anyone in the position in which the Town Clerk was said to have been placed."

There can be no better statement of my own position, as I see it.

Yours sincerely,

PAUL SMITH,
Clerk of the Council.

The Members of the Council."

222. This letter only had the effect of reinforcing the opinion of the majority of the Council that the situation between their Clerk and themselves had become intolerable and that the stage had been reached when it was obvious that Mr. Smith could no longer be employed as Clerk. It was made clear at this meeting that his appointment was to be terminated but it was agreed that the Motion to dismiss him should be adjourned until 27th May in order to enable the Chairman to see the Clerk the following day and give him the chance to resign.

(b) The Council Meeting of 27th May

223. The Chairman saw the Clerk on 26th May and told him that the majority of the Councillors were of the opinion that he and the Council were incompatible and that the only solution was for his appointment to be terminated in accordance with the terms of his engagement or that he should resign. The Clerk promised to let the Chairman know his decision before the meeting on 27th May.

224. At that meeting, from which the Clerk was again absent but at which Mr. Kennedy was again present, the public and press were excluded while the Clerk was discussed. Before the item was discussed Councillor Boothman withdrew. The Chairman presented to the meeting the letter he had received from the Clerk, stating that he did not intend to resign.

BOGNOR REGIS URBAN DISTRICT COUNCIL,
Town Hall,

Bognor Regis, Sussex.

27th May, 1965.

HC

Dear Brigadier,

As you know, I cannot be at tonight's meeting as I am still suffering from gastroenteritis. I would like to make the following comments.

While the Council are considering my conduct, I think it would be appropriate to consider whether the various Conservative Councillors who had involved themselves in defamatory attacks on me, which could be the subject of legal proceedings, should resign their office as Councillors forthwith, in the interests of the Council and the town as a whole.

As regards myself, I would ask the Council to re-read my letter of the 25th instant, which I understand was not read out at Tuesday evening's meeting. If the Council feel that they wish me to go—then they will have to search their consciences and dismiss me.

Yours sincerely,

PAUL SMITH,
Clerk of the Council.

Councillor Brig. H. E. Horsfield,
C.B.E., M.C., J.P.,
St. Julians,
Crossbush Road,
Felpham,
Bognor Regis.

225. When the matter was put to the meeting the following Councillors voted for the dismissal of the Clerk:—

Anderson,
Britton,
Goldsmith,
Hansford,
Horsfield,
Larcombe,
Parfrement,
Phillips,
Reynolds,
Shearing,
Vincent, and
Youngman.

Three Councillors voted against the Motion to dismiss the Clerk ; they were Councillors:

Kingsbury,
Mrs. Moore and
Mrs. Locke.

The Councillors who were not present at that meeting told me in evidence that they would have voted for the Clerk's dismissal. Two of the Councillors who voted against his dismissal have told me that they were opposed not so much to his dismissal as to the fact that the decision should be taken in the Clerk's absence.

PART II

CONCLUSION

Preliminary Remarks

226. In the foregoing pages I have tried to set out the train of events from Mr. Smith's appointment as Clerk to his dismissal, and to do so as factually as possible and with the minimum of comment: I have listened to a great deal of evidence about events which occurred in Bognor before Mr. Smith's arrival, and where relevant to my terms of reference, I have taken this into account. From a mass of documents I have had to select for inclusion in this Report only those which seem to me, when viewed in their proper context, to be important to an understanding of the events described in Part I of the Report.

227. I embarked upon this Inquiry with very little knowledge of its subject matter and I have formed my views solely on the evidence presented to me. Inevitably, some of that evidence has been conflicting; much has depended on recollection which was admittedly imperfect; some has been prejudiced. However, I am satisfied that in general the evidence I heard was given without bias and with the sole desire of helping me to understand the events as the witnesses remembered them. I am sure that the nature of the Inquiry encouraged witnesses to speak more freely than they might otherwise have felt able to do.

228. In the chapters which follow I propose to review shortly the principal events which seem to me to call for some comment at the end of a long examination of the facts.

CHAPTER 29—THE ROOT OF THE DIFFICULTIES

229. I do not think it is possible to come to any conclusion on the events which took place in Bognor between July 1964 and May 1965, without considering the personalities of those involved. I have attempted, therefore, when considering each of the principal actions and events during the time when Mr. Smith was Clerk of the Council, to arrive at an understanding of the motives of those concerned. As a result, I have come to the conclusion that at the root of the difficulties which arose between Bognor Regis Council and their Clerk lay, first, a fundamental difference in their conception of their own and each others roles in local government, and second, the personality of Mr. Smith.

230. The next Chapter of this part of the report contains my views on the difference in the way the Council and the Clerk saw their respective roles. In the three Chapters following that are my comments, in the light of the two factors which I believe to have been fundamental to the difficulties which arose, on some of the principal events described in Part I of the report.

CHAPTER 30—THE CONFLICT OF VIEW

231. Mr. Smith considers that the Clerk of a Council, if he is a lawyer, should act as the Council's legal adviser; in so doing he is advising the Council in his speciality just as the Engineer advises on engineering matters,

and all the other Chief Officers provide the Council with the benefit of their professional and technical knowledge. But the Clerk is also the Chief Administrative Officer of the Council, unless it is specifically stated to the contrary, and as such the Clerk is "first among equals" in his relationship with the Council's other Chief Officers.

232. With this view of the office of Clerk, the Bognor Regis Council, the Society of Clerks of Urban District Councils and nearly everyone in the world of local government would, I think, agree with Mr. Smith.

233. Mr. Smith, however, goes further, and believes that the Clerk of a Council bears a unique responsibility among Chief Officers in that he enjoys a very special relationship with the ratepayers. He finds support for this view, as he has said on a number of occasions, in the judgment given by Lord Chief Justice Caldecott in the case of *Hurle-Hobbs ex. p. Riley*, 1944, known as the "Finsbury Case", which is concerned with district audit. The section of the judgment which Mr. Smith considers to be relevant appears in his letter of 25th May to all Councillors (see Chapter 28(b)) and is as follows:—

"The office of Town Clerk is an important part of the machinery of local government. He may be said to stand between the Borough Council and the ratepayers. He is there to assist by his advice and action the conduct of public affairs in the Borough, and if there is a disposition on the part of the Council, still more on the part of any member of the Council, to ride roughshod over his opinions, the question must at once arise as to whether it is not his duty forthwith to resign his office or at any rate, to do what he thinks right and await the consequences. This is not so dangerous or heroic a course as it may seem. The integrity of the administration of public affairs is such that publicity may be safely relied upon to secure protection for anyone in the position in which the Town Clerk was said to have been placed."

234. The observations of the Lord Chief Justice were made in the context of the facts of the Finsbury Case and seem to me not to have been necessary to his decision on that case. Whether I am right or not, I think it is clear that Lord Caldecott was not intending to lay down a principle of local government practice of universal application and irrespective of the circumstances.

235. The acceptance of the passage quoted above as definitive of the Clerk's duties in all circumstances and at all times would place him in a unique position indeed. It would seem to follow from the acceptance of that view that in any situation in which a Clerk found himself in conflict with his Council over an important issue of policy, he would have a duty, if it was his opinion that the wishes of the Council were opposed to the best interests of the ratepayers, "to do what he thinks right"; indeed, the Clerk might conceive it to be his duty to make every effort to frustrate the will of his Council and to appeal, over their heads, for the support of the ratepayers. If a Clerk were to interpret the words of Lord Caldecott in the way suggested above, it is clear that he would consider that his first duty was to the ratepayers and that he was virtually independent of his council.

236. But if a Clerk is not answerable to his Council he is answerable to no one. In my view he is the employee of his Council and it is to them that his primary loyalty and duty lie and it is to them that he is answerable for his actions. In the course of advising his Council there is clearly no objection to a Clerk telling them that he considers their proposals to be wrong and, if he thinks fit, submitting his views to them in writing. I consider, however, that he should express his opinion in a manner that will not embarrass his Council and that once his view is known to them he should leave them to come to their own decision. It is the duty of Councillors to formulate the policy for the local authority and they are directly answerable for their actions to the ratepayers at the polls. This was the view of their own and their Clerk's function that was held by the Bognor Regis Council, as I think, correctly.

237. In exceptional circumstances, such as those in the Finsbury Case, there could well be a justification for a Clerk departing from what I have suggested should be his normal behaviour vis-à-vis Councillors. If he believes that a member of the Council has either consciously or unconsciously committed, or is putting himself in a position in which he might commit, an offence then I think he should first broach the matter with the Councillor himself; if that fails he should inform the Chairman of the Council of his concern and, perhaps, consult the Leader on the Council of the Party to which the Councillor in question belongs. If after all these efforts the Clerk finds that no notice has been taken of his warning, naturally, he finds himself in a difficult situation. If he is satisfied that there is a *prima facie* case of, for example, an offence under section 76 of the Local Government Act, 1933, after making efforts to alert the Chairman and Councillor concerned, I think he would be justified in confiding his suspicions to the Director of Public Prosecutions.

238. However, it seems to me that it would be quite improper if the Clerk were to do anything which might create the impression in the minds of the public or the Press that he was suspicious of his Council or any member of it. It is perhaps otiose to add that a man is innocent until the Courts have found him guilty, but the public seems all too ready to believe that the mere suggestion of impropriety is sufficient proof of guilt.

239. I have heard evidence from the Society of Clerks of Urban District Councils and from people who have served for many years in local government either as Councillors or Officers. I am satisfied that none of them share the view—quoted by Mr. Smith on several occasions—that the Clerk “may be said to stand between the Borough Council and the ratepayers”.

240. Mr. Smith is an active worker for the reform of local government and it seems most probable that while he was Clerk of the Bognor Regis Council he held at least some of his present views on the inadequacies of the present system. Among the subjects on which Mr. Smith has strong opinions are the need for the amendment of section 76 of the Local Government Act 1933, the position of businessmen on Councils and the necessity for the Press to be present at more of the meetings of the Council Committees. I believe, in so far as these opinions conflicted with the practice of the Bognor Regis Council and of local government in general, that they were instrumental in causing some of the difficulties which arose between him and his Council.

241. Mr. Smith attaches great importance to section 76 ; he sees it as existing for the protection of both the public and the Councillor. He also considers, I understand, that it does not give sufficient guidance to Councillors on when to declare their interests. At present a prosecution for an infringement of the section can only be brought within six months of the commission of the offence. Mr. Smith considers that this period should be extended in the interests of the public and it may be inferred that he believes that far more prosecutions would be brought if the six-month period were to be extended.

242. Related to his views on section 76 are Mr. Smith's opinions on the position of businessmen who are also Councillors. If I understand him correctly, Mr. Smith believes that a person who has a business in the town in which he is a Councillor should not serve on the Council Committees that may deal with aspects of the Council's work which could be related to his business. If he does so there is a danger to the public that Council decisions may be affected by private interests and the Councillor, no matter how scrupulous he may be in fact, may be the object of allegations that he is influencing affairs for his own gain.

243. I can see some logic behind both these views although I do not think they can be accepted without qualification. Section 76 of the Local Government Act 1933 seems to be designed for the very purpose of protecting the public and the Councillor from the dangers of a conflict between private profit and public policy. As I see it, among its imperfections is this, that even if a Councillor never fails to declare his interest in a matter and refrains from speaking or voting on it, there remains at least the possibility that privately he has influenced the views of his brother Councillors. From the Councillor's point of view, section 76 affords him no real protection from the sort of rumour which says that although Councillor X did not actually take part in the discussions he made sure that Councillor Y, who did participate, would see his interests did not suffer.

244. There seems to be only one way of making quite sure both that Councillors cannot improperly influence policy and cannot be accused unjustly of doing so, and that is to declare all those who have business interests in the town ineligible for membership of the Town Council.

245. While no doubt there may be certain cases in which it is undesirable that Councillors with particular business interests should serve on certain Committees, I consider that the number of such cases is likely to be small. On the other hand, there is no doubt that local businessmen are closely concerned with almost every activity of the local community and, naturally, are likely to do all they can to foster its well-being and development. They also possess valuable knowledge and skills—and to say this is in no way to decry the contribution made by many retired and professional people.

246. There seems to be a danger that if businessmen are to be excluded from the major Council Committees they may feel that they can make no effective contribution to local government and decide not to take any part in local affairs. That, it seems to me, would not be in the interests of good local government for two reasons: first, their skilled knowledge can and does make a useful contribution; second, there is a danger—and it is difficult to estimate

how real it might be—that Councillors when considering the more technical aspects of their work might become no more than rubber stamps on the proposals of their officers.

247. Mr. Smith also considers that the Press should be permitted to attend more Council and Committee meetings than they do now. I do not feel able to express any view on this matter, but I think it right to observe that there must always remain matters, such as decisions on the appointment and conduct of Council staff and the personal details of those who have applied for assistance from the Council, which should be discussed privately by the Council. In the last resort, it seems to me that the Council must always be able to exercise a discretion to exclude the public and the Press from the discussion of matters which it would not be in the public interest to publicise.

CHAPTER 31—THE COURSE OF EVENTS

248. It appears to me that the development of the relationship between the Council and Mr. Smith fell into three periods; first, from July to September or October when all the Councillors, though perhaps Mr. Rose had reservations even then, believed that the advent of their new Clerk marked a new and progressive era in their affairs; second, the period from about October 1964 to March 1965, during which some Councillors began to find it difficult to work with the Clerk and he began to form views on the unsuitability of some of them; and third, the weeks following the news of the so-called "Star Chamber" meeting.

I propose now to comment on the first of these periods.

(a) *July to October 1964*

249. A glance at the list of Councillors and their occupations shows that somewhat less than half had businesses in Bognor, the remainder being either retired, public spirited ladies, employees, or in business outside Bognor. A proportion had been on the Council between three and five years, there were a few new Councillors, notably Councillors Youngman, Goldsmith, Hill-Willis and Kingsbury, and there were a few "old hands"—these were Councillors Phillips, Boothman and Mrs. Locke, all of them past chairmen. Councillor Boothman had been on the Council continuously since 1951, had held all the principal offices, had been Vice-Chairman for two years, and Chairman for three years, and had somewhat reluctantly agreed to be Vice-Chairman for the year 1964-65 to help a somewhat inexperienced Chairman and see in a new Clerk. As Chairman of the Finance and Rating Committee and Vice-Chairman of the Council he was ex-officio a member of all Committees, and was clearly the most experienced and probably the most influential Councillor. His had been the casting vote for Mr. Smith and he took the lead in introducing him. Councillor Rose was also an influential member in a Council with a conservative majority by reason of his chairmanship of the Party Association at Chichester, his long experience of local government affairs and editorship of "The Justice of the Peace". Councillor Vincent was also an influential member as Chairman of the Development Committee and Vice-Chairman of the Finance and Rating Committee.

250. In July 1964 the council were working together harmoniously and, so far as all events as the Labour and Conservative members were concerned, did not act or vote along party lines. They were, nevertheless, aware of a good deal of public criticism, which a number of members shared, on such matters as sea defences, Butlins, the main drainage scheme, and the redevelopment of the sea front, and welcomed the arrival of a clerk with new ideas and the will and energy to get things moving.

251. There was a great deal of goodwill towards Mr. Smith, and it was most unfortunate that Lord Justice Salmon's scathing judgement came at a time when the Clerk had scarcely settled in and added to public criticism of the Council at a time when the Council were anxious, with the help of a new Clerk, to improve their public image. Even at this early stage this produced a clash of personality between the Clerk and Councillor Rose, and there was a difference of view between Councillors who wanted to appeal, if only to clear the stigma of bad faith (which, in the event, the Court of Appeal did) and the Clerk, who had not been involved and did not worry overmuch about Councillors' wounded feelings but wanted to avoid the delay of an appeal and get on with the defence works. The tone of his "address", composed when he was smarting from the criticism of Councillor Rose, seems to me to have been very tactless, and could have been considered offensive. However, this seems to have been an isolated incident and was overlooked as part of the process of adjustment, but I mention it as a pointer to the Clerk's approach towards the members of his Council.

CHAPTER 32—OCTOBER 1964 TO MARCH 1965

252. It was inevitable that an energetic Clerk—such as Mr. Smith—with new ideas, in a hurry to put them into effect and impatient of opposition or criticism when he believed himself to be in the right, should have found himself from time to time at odds with the more experienced Councillors. But I think that, while there is little evidence of overt conflict before March 1965, a number of events took place which played an important part in shaping the actions and attitudes of both the Clerk and the Councillors and that these events should be discussed.

(a) *The Sea Outfall*

253. It was during this period, or even a little earlier, that the Clerk became convinced that the Council's proposal to build a sea outfall was misconceived and that an inland sewage disposal works was to be preferred. Doubtless, as a private person, Mr. Smith was entitled to hold whatever views he wished, but as a Clerk his duty was to give the Council his advice and, whether or not they accepted it, to execute their policy without amendment. Mr. Smith's opposition to the sea outfall became known at the Ratepayers' Association Executive Committee Meeting. It was essential, therefore, that he should do nothing which might lead Councillors to suspect that his private opinion was affecting his execution of the Council's decision that a Public Inquiry into their sewerage proposals should be held as soon as possible. The effect upon Councillors of the news, given in May, that the Clerk appeared to have been responsible for the postponement of the Inquiry is discussed in detail in the next Chapter.

(b) *The Ice Cream Concession*

254. The Clerk's correspondence with Mr. Vincent about the Ice Cream Concession requires comment. His letter of 15th October, probably, was well intentioned, but it seems to me that if, in a matter which he recognised as one of considerable delicacy, he proposed to write rather than take the usual course of speaking to Mr. Vincent, he should have ensured that the facts upon which he based his letter were accurate. Mr. Vincent's anger at receiving such a letter is most understandable and I think it is very much to his credit that he was willing to regard the incident as closed after he received the Clerk's letter of 20th October.

255. It can, therefore, be imagined that he was most surprised and perturbed when Mr. Smith supported Councillor Fisk's successful effort in November to have the Concession put out to tender. The Clerk's explanation of his volte face between 20th October and the meeting of the Highways and Fore-shore Committee in November is set out in Chapter 4(b). What I would regard as the most compelling reason, were it true, namely that the District Auditor had told the Clerk that the Concession *must* go out to tender, is not supported by the District Auditor nor by Mr. Smith's letter of 17th May to the Minister. Mr. Smith also said that it was only after his conversation with Councillor Fisk on Armistice Sunday that he consulted the files and found the three letters from members of the public asking for the Concession to be put out to tender. I was not shown these letters but it is probably safe to assume that they were based on the same erroneous assumption, shared at one time by both the Assistant District Auditor and the Clerk, that Councillor Vincent was the Concessionnaire. Whether this was so or not, Mr. Smith should surely have read the files carefully before he sent his letter of 20th October to Mr. Vincent. He has also told me that he thought that Councillor Fisk was prejudiced against Mr. Vincent and that he discounted some of the allegations that he made. If Mr. Smith was unsure of the substance of those allegations (and they were later found to be without substance), it seems to me that his failure to make any attempt to test their truth, or obtain an explanation from Mr. Vincent, before executing what must have appeared to be a studied volte face, was deplorable. I do not think that this was due to any ill will towards Mr. Vincent, but in my view Mr. Smith's actions throughout the affair of the Ice Cream Concession are characterised by a lack of tact and poor judgment.

(c) *Relations with the Treasurer*

256. There is little doubt that several of the Councillors who had been on the Council for some years and knew the Treasurer were aware of the antagonism that had arisen between him and the Clerk. I am satisfied that in criticising Mr. Tailby's management (see Chapter 4(g)), Mr. Smith was acting as he believed a Clerk was entitled to act and that he was motivated by what he believed to be the best interests of the Council and the ratepayers. But the incidents I have described illustrate the difficulties which were bound to arise partly because of Mr. Smith's unorthodox views about the role of the Clerk and partly by reason of the methods he chose to assert them.

257. It is clear from the petulant tone of the correspondence which passed between them that the Treasurer made no attempt to be conciliatory, but I think he was acting under considerable provocation.

(d) *Relations with Councillors*

258. The public relations of the Council at the time of Mr. Smith's appointment were not good. The public were well aware of Lord Justice Salmon's finding of bad faith on the part of the Council and there was a common feeling that the Council were high handed and unsympathetic.

259. The new Clerk set out to try and dispel this unfortunate impression. In the process he won the confidence of the Press and the public and gained the reputation of being a sympathetic man. I also believe that he was told a good deal of tittle-tattle about members and officers of the Council. I think this may have coloured his attitude towards Councillors Boothman and Vincent. It is clear that he considered that neither of them should be on the Development Committee and I have gained a clear impression that their departure from the Council would have been welcomed by him. Mr. Smith confided his views to several Councillors, some of whom resented his remarks and came to the conclusion that he wanted Councillors Boothman and Vincent to leave the Council so that he could run affairs as he wished. This may not have been the conclusion that Mr. Smith intended to be drawn but it can hardly be a matter for surprise that it was drawn by Councillors who knew Messrs. Boothman and Vincent very much better than did the Clerk and respected their integrity and industry. Reticence is not to be found among Mr. Smith's many undoubted qualities and his willingness to express his views about Councillor X to Councillor Y may have created the impression that he was seeking to play off one against another, even if such was not his intention. As Mr. Smith assured me that he was solely concerned that Councillors Boothman and Vincent should not remain in positions on the Council where their impartiality might be called into question, it is regrettable that he acted in a manner which led to his motives being misconstrued.

260. It may have been his apprehension as to the position of Councillors Boothman and Vincent which led the Clerk to make his statement about section 76 to the Council in December. The making of this statement may also have been influenced by his knowledge that letters of complaint had been received by the Director of Public Prosecutions, although my impression is that he thought and hoped that there was no substance to them. I am prepared to accept that the Clerk felt that, possibly for these reasons, he should give some sort of warning to the Council, which, of course, contained a number of recently elected Councillors.

261. At a time, however, when the High Court Judgment was still very much in the mind of the public, his remarks could only have the effect of making the public increasingly uneasy about the honesty of the Council in general and Councillors uneasy about each other. I have heard no evidence of laxness among Councillors in general about the declaration of interests, but even if Mr. Smith thought that there was, he could surely have found less abrupt and damaging means of achieving his laudable desire that members of the Council should not only be, but also be seen to be, above suspicion. Many of the Councillors criticised the Clerk for making the statement in public session: in my view, his action in doing so was quite uncalled for and deserved the criticism which it received.

(c) Complaints to the Director of Public Prosecutions

262. There is one further incident before 21st March which perplexed the Chairman and certain Councillors. On 22nd December the Clerk telephoned the four Councillors about whom complaints had been made to the Director of Public Prosecutions and told them that they were "in the clear". The Chairman, of course, was also made aware of this. I have been assured by the Director of Public Prosecutions that Mr. Smith was given no reason, on 21st December, for believing that there would not be a police investigation; the question was still under consideration. It therefore seems that Mr. Smith completely misunderstood the sense of the meeting at the Director's Office.

263. Although these assurances had been given by the Clerk, rumours that the police were carrying out investigations had reached the ears of Councillors Boothman and Vincent and the Chairman, and the Chairman was unable to obtain either confirmation or denial of them from the Chief Constable. It might normally have been expected that the Clerk, who knew the circumstances, would have told the Chairman of the new situation. He did not do so because, as he told me, the police had asked him to treat the matter as confidential and he felt that he could not assume that the Chairman would not inform the Councillors concerned, as he had done in December, which to Mr. Smith's mind was a "breach of confidence". The Chairman had good reason for telling the Councillors concerned in December and his action in doing so plainly involved no breach of confidence whatever (see Chapter 4(e)). What I find more surprising, however, is that even if the Clerk felt that the Chairman would not respect his confidence, he was prepared nevertheless to share his confidential information with certain other Councillors.

(f) The Chairman

264. There may be a temptation, with the benefit of hindsight, to say that the Chairman, soon before Christmas, 1964, should have called a meeting of the Council and Clerk to discuss whatever difficulties there were between them. It should be remembered, however, that the majority of the Councillors were quite unaware of the tension between the Clerk and the small minority of Councillors who were critical of certain of his actions. The majority at that time believed they had a very good Clerk and the Chairman still hoped that they would be shown to be right. He firmly believed that the new Clerk should be given ample time to accustom himself to his post and to his Council and did all that he could to restrain Mr. Smith and his critics from provoking a head-on collision. I am certainly not prepared to say that the Chairman was wrong in the circumstances as he knew them then.

265. In view of everything that I have heard, however, I am of the opinion that even had such a meeting been arranged it would have been unlikely to have achieved a lasting solution. Mr. Smith plainly reacts sharply to any criticism of himself and I do not think he would have been any more prepared to alter his views about his role as Clerk or his approach to Councillors at this stage than he was later on.

(a) *The Chairman's "Tea Party"*

266. The event which closes the second stage of the relations between the Clerk and the Council and opens the third stage is the meeting at the Chairman's house on 21st March. There is no doubt that the distorted account of this meeting and the misconceptions as to its purpose profoundly affected the events of the next few weeks.

267. The meeting was arranged on the advice of Councillor Boothman. I have found nothing in the evidence to support the suggestion which has been made to me that in giving this advice he was acting as the representative of the "Power Group" of Conservatives and was initiating a sinister attempt to secure the dismissal of the Clerk. The Chairman and he had come to the conclusion that the time had arrived when it was essential for the Clerk to be told that in some respects his conduct of the Council's affairs was not considered satisfactory. The majority of the Council were unaware of the existence of any problem and it was felt that a representative section of the members should be told what were the matters of criticism and asked for their reactions. This seemed to the Chairman a sensible way of dealing with a very difficult situation and I think he was entitled to expect that those present would treat the fact of the meeting and the matters discussed there confidentially or at least with great discretion. He could not have anticipated that the meeting would have been followed by wholly misleading reports of what had taken place.

268. I have carefully considered the evidence of all those present at the meeting and Councillor Kingsbury's two statements to the police, and I can find nothing to indicate that it had or was intended to have a conspiratorial purpose. To describe the meeting as a "Star Chamber" suggests either a complete misunderstanding of its purpose and content, or a wilful distortion of the facts.

269. However, Mrs. Moore and Councillor Kingsbury left the meeting with the impression that the Clerk "had had it". They formed this impression, I believe, because they assumed that Councillor Rose expressed to the meeting the views of the controlling group of Conservatives. I can understand how they formed this mistaken view; Mr. Rose was the Chairman of the local Conservative Association and he is forceful and articulate. But I am sure that the views he expressed were far more extreme than those of the other Councillors who had become dissatisfied with the Clerk, and that he alone was committed to the unequivocal view that Mr. Smith should be dismissed.

270. Councillor Kingsbury is a very young, enthusiastic and inexperienced member of the Council. He had formed a very high opinion of the Clerk's ability and performance and was very worried by what he seems to have believed was the underlying purpose of the meeting. His impulse to share his anxiety with an older man, Dr. Warren Browne, both before and after the meeting, is perhaps understandable, but it had the most unfortunate results. The ensuing telephone conversations and discussions between Dr. Warren Browne and the Clerk, Mr. Kingsbury and Dr. Warren Browne,

the Clerk and Councillor Kingsbury, seem to have led Mr. Smith to believe that there was a plot to dismiss him at a meeting to be held after the Council meeting on 23rd March. I find it impossible to understand how this impression could have been gained by the Clerk from any accurate account given by Councillor Kingsbury of the "Tea Party" since it was he and Mrs. Moore, as they were at pains to explain in their press statement on 29th March, who had pressed for a full Council meeting to be held after the monthly Council meeting on 23rd March, and were much aggrieved that it was not held at that time. They would scarcely have urged this course had they thought the purpose of such a meeting was the dismissal of the Clerk.

271. Whatever is the real explanation (and it may be that the facts had become garbled and distorted in the course of a number of discussions) it is clear to me from the transcript of the Clerk's telephone conversation with the Office of the Director of Public Prosecutions that by the afternoon of 23rd March he had become convinced that there was a group of influential Councillors, led by those who had somehow found out that he was "assisting the police" with their investigations of certain of them, which intended to try to persuade the Council to dismiss him after the Council meeting that evening.

272. This transcript makes it equally clear, in my view, that Mr. Smith's principal motive in making a public statement about the police investigations was not so much to allay public anxiety as to make it difficult for those whom he believed were both the subject of the police investigations and the leaders of the move to dispose of him, to raise the question of his dismissal after the Council meeting. Such an action seems to me to be entirely consistent with Mr. Smith's view of the relationship between a Clerk and the ratepayers, namely that should some Councillors attempt to prevent a Clerk from doing what he believes is in the best interests of the ratepayers, he has the right to appeal to them publicly for support.

273. The news of an alleged "Star Chamber" became known to the public through the Press at precisely the same time that they heard that the police were investigating certain Councillors. There were many who formed the impression that attempts were being made to dismiss the Clerk because he was assisting the police to uncover the malpractices of certain Councillors, and this impression was encouraged by Mr. Smith's statement to the Press to this effect. In fact, I have received no evidence that the Clerk did any more to assist the police than to make available, as was his clear duty, all the relevant documents in his possession and I am quite satisfied that none of the Councillors concerned would have taken exception to the Clerk, in the course of his duties, giving the police his assistance, had they known he was giving it.

274. I do not know whether it was a coincidence that the Clerk made his announcement about the police investigations at the same meeting as Mr. Campion handed in his letter to the Chairman; nor do I know whether it was a coincidence that the Clerk and Mr. Campion should both have used the phrase "Star Chamber" on the same day. There is no evidence to indicate that the two were in touch with each other at this time, and indeed

the evidence I received from them both was to the contrary. It may be that Mr. Campion's mysterious "informant" could explain these apparent coincidences ; I cannot.

275. The effect on the public of the revelation by the press of the "Police Probe" and the fictitious "Star Chamber" was, predictably, further to discredit the Council, and alarm the public.

276. I think Mr. Smith acted as he did under the influence of misleading information which greatly disturbed him and led him to act impulsively in his own defence. He was not really prepared to accept his Chairman's assurance that the meeting of 21st March had none of the sinister overtones attributed to it by Mr. Campion and it seems that he was not able to free himself thereafter from the conviction that there existed a plot to oust him. In my opinion those who, for whatever reason, were concerned to assert that there was, did both Mr. Smith and the Council a great disservice. The strength of this conviction is illustrated by the fact that Mr. Smith not only made Press statements hinting at the possibility of a criminal conspiracy but with Councillor Kinsbury, enlisted the help of the police in the investigation of such a conspiracy. That there was no element of criminal conspiracy apparent in Councillor Kingsbury's statement I would have thought would have been obvious to a Solicitor, yet Mr. Smith provided the main part of a letter alleging a conspiracy by Councillors to manufacture evidence against him for Council Fisk to send to the Director of Public Prosecutions. The announcement in the Press by Councillor Fisk that this letter had been sent was calculated to damage still further the Council's reputation in the eyes of the public. For this move both the Clerk and Councillor Fisk, in my view, bear joint responsibility ; the latter now regrets his action.

277. On the question of the so-called "Star Chamber" which I think is fundamental to the matters I have examined, I have come to the following conclusions :—

- (a) There was never a plot to oust the Clerk.
- (b) There was no conspiracy to manufacture reasons to evict him.
- (c) Mr. Smith's supposition that the assistance which he may have given to the police in the course of the investigations ordered by the Director of Public Prosecutions prior to 21st March may have inspired hostility towards him by Councillors who were being investigated, is without foundation.
- (d) The reasons for the "Tea Party" were those given by the Chairman and confirmed by the Liberals' statement on 29th March.
- (e) Mr. Smith was misled as to the nature of the "Tea Party" by the accounts he received from Dr. Warren Browne and Mr. Kingsbury.
- (f) The course of action which Mr. Smith took, hastily and under stress, was profoundly influenced by the inaccurate information he had received that a group of Councillors was determined on his dismissal : once embarked, Mr. Smith's view of his duties as a Clerk and his own temperament would not permit him to change a course which was bound sooner or later to lead to a collision. His subsequent

actions follow the pattern set by his response to the events of 21st March and are, I think, to be explained by the assumption that he was convinced that he was being victimised for carrying out his duty as he saw it.

(b) *"The Statement of Confidence"*

(The details and text of the "Statement of Confidence" are to be found in Chapter 3).

278. I have tried to come to a conclusion on what were the Clerk's motives in preparing the "Statement of Confidence" for the Chairman to sign. It is clear that during the first week in April he still believed that there was a move afoot to dismiss him, even though he had been assured that this was not so. I think he reasoned that if the Chairman publicly announced his confidence in the ability of the Clerk, it would make it quite impossible for those who were plotting against him to continue with their campaign to depose him. He may also have felt that it was impossible for him to continue to work with the Council unless they were prepared, through the Chairman, to announce that he had their backing.

279. The second paragraph of the statement Mr. Smith prepared for the Chairman appears perplexing at first sight. It was clear, in my opinion, from the two Liberal Councillors' statements published in the "Evening Argus" on 29th March, and Councillor Kingsbury's statement to the police that there was nothing which the Chairman said at the meeting on 21st March for which he need apologise. However, as I have said, I believe that Mr. Smith was given a completely misleading account of that meeting and it seems to me most likely that he was acting on the incorrect version he had been given when he drafted the paragraph in which the Chairman was to apologise to him.

280. The Chairman certainly felt that he had no need to apologise and for that reason he deleted the second paragraph. He was satisfied with the Clerk's ability and the work he had done, even though there were some aspects of the Clerk's conduct with which he was not entirely content. He was also well aware that ill-informed rumours to the effect that the Clerk was to be dismissed were circulating. He feared that a situation was rapidly developing which would be damaging to the Council, the Clerk and the Town; he was concerned to do all he could to avert this. After talking to the Clerk and Councillor Fisk on 5th April, he came to the conclusion that it would help to avert this danger if he signed the amended statement. I am satisfied that he did so sincerely and of his own volition, in the hope that it would end the rumours and open a way for the Council and their Clerk to settle whatever differences there were between them, and on the understanding that in future the Clerk would refrain from making provocative press statements.

281. To many members of the public it appeared a puzzling contradiction that on 5th April the Chairman expressed his confidence in the Clerk, yet, on 27th May, he and the majority of Councillors voted for Mr. Smith's dismissal. Several explanations have been suggested; some have said that the Chairman was insincere when he put his name to the statement; others that he signed it under duress.

282. I am quite satisfied that neither of these suppositions is correct. The situation on 5th April was very different from that which had developed by 27th May. When the Chairman made his statement of confidence he could not have foreseen that the Clerk would suppress the Permanent Secretary's letter of 14th April; that the Council would learn that the arrangements for the inquiry into the sea outfall had been postponed at the suggestion of the Clerk; and that Mr. Smith would continue to make statements to the Press about the conduct of the Council.

283. It is easy to question the wisdom of the Chairman's action if it is looked at in isolation. But the circumstances obtaining when he signed the statement are important. The subtleties of the substitution of "work" for "actions" could not be appreciated by the public or the Councillors unless the Chairman explained them, and to have done that he would have been regarded as being disloyal to the Clerk and as defeating the whole purpose of the statement as he understood it. It was the Clerk's actions that were ultimately held to be incompatible with his continuing as Clerk; and it was the Clerk's actions in which the Chairman was not prepared to express his confidence. The statement, however, gave the appearance of the Chairman's unqualified confidence in the Clerk and was a surprise to a number of Councillors when it was made, and to members of the public after Mr. Smith's dismissal. I think it was probably a mistake to have signed the document but it was a very venial one in the very difficult circumstances.

(c) *The Permanent Secretary's letter of 14th April (see Chapter 16).*

284. The Clerk has been accused of suppressing the Permanent Secretary's letter of 14th April. Many Councillors have told me that they considered his action in withholding the letter from them an attempt to mislead the Council and that it was one of their main reasons for voting for his dismissal. It seems to me, therefore, that the incident should be discussed here.

285. Mr. Smith wrote to the Minister on 7th April asking for advice on the "most expeditious way" of holding an inquiry, and the Secretary replied on 14th April. Her letter was addressed to "The Clerk, Bognor Regis Urban District Council". The envelope was marked "personal" in order, the Secretary later explained, that the letter should reach the Clerk without delay. Mr. Smith, the Council and the Secretary are all in agreement that the contents of the letter could not possibly be considered personal or confidential to him.

286. Why then had the Clerk concealed the existence of the letter of 14th April and why, when pressed, did he refuse to divulge either its contents or the date on which it was sent? He had always been in favour of an inquiry being held and he realised subsequently that the suppression of the letter had placed him in a very difficult position. He has told me that he had two main reasons for withholding the letter; first, because the envelope containing it was marked "personal"; second, because he felt that the situation had by then developed to the point where he "had got to dig my (his) heels in". I think the second must be the correct explanation of his action. So foolish an act can, I think, only be attributable to the probability that Mr. Smith was under considerable strain and still remained convinced of a plot to depose him.

287. Whatever was the real explanation of this extraordinary behaviour, the Councillors could not have been aware of it and the angry reaction of many of them when the deputation reported the contents of the letter from the Secretary which had been withheld, can be a matter of no surprise, and seems to me to have been entirely justified.

(d) *The Sea Outfall Again*

288. When the Council deputation visited the Permanent Secretary on 6th May they took the opportunity of asking what progress had been made with the arrangements for the public inquiry into the proposed sea outfall. The Secretary telephoned the responsible branch of the Ministry and received a message that

"We were ready to go to enquiry in February but were asked by the Clerk to hold our hand. We are still waiting to hear from him."

This message, which the Secretary read to the deputation, was ambiguous. To the officers who sent the message it meant that during February the Ministry had been ready to begin issuing notices about making arrangements for the inquiry. But, obviously the deputation considered the message to mean that the inquiry could have been held in February. To this unfortunate but understandable mistake on their part was added the error of reporting that the inquiry could have begun on 15th February. I am at loss to understand how the deputation gained the mistaken impression that the 15th of February was mentioned during their meeting with the Secretary.

289. In the days following the news of the deputation's report, it was this inaccuracy which gained prominence, not the fact that the arrangements for the inquiry were postponed at the Clerk's suggestion.

290. It is clear to me beyond doubt, having read the relevant Ministry files, that it was as a result of what the Clerk said to the responsible Ministry officers that the arrangements for the inquiry were postponed. I am also in no doubt that the Council wanted the inquiry to be held and wanted it as soon as possible. Points 2 and 3 of the Clerk's letter of 10th May to the Permanent Secretary accurately represent, I think, his own doubt about the inquiry. I am satisfied that these were his own views and not those of the Public Health Committee or the majority of the Councillors. I am sure he was acting in what he considered the best interests of the Town and the Council but, again, it does not seem surprising that when the Council learned that the arrangements for the inquiry had been postponed at the Clerk's suggestion, many of the Councillors could see no justification for his action. Some of them felt that he was "dragging his feet" in the hope and belief that after the Council elections in May there would be a majority of the Council in favour of an inland disposal works; the Ministry's record of the Clerk's telephone conversation with them of 26th February and the Clerk's letter of 10th May to the Permanent Secretary lend some support to this view.

291. It has also been suggested that Mr. Smith needed more time to prepare the Council's case and it was for that reason that he suggested that the inquiry be postponed. I am quite prepared to accept that this may have been one of his reasons for wanting the inquiry delayed. If it was, I consider that he

was at fault in not informing the Chairman of the Council or the Chairman of the Public Health Committee that he had asked the Ministry to "hold their hand" in order to give him more time.

(e) Press Statements

292. A great deal of attention has been devoted by the Press, both national and local, and Television to the affairs of Bognor Regis. Much of what the public have learnt about recent affairs in the town has emanated from Mr. Smith and those who are critical of the Council. Far less of the Council's version has been told. Many reasonable people when hearing or reading about recent events have, I think, said to themselves that "There is no smoke without fire". Some of them may have forgotten an equally ancient saw—"There are two sides to every question".

293. It seems right to me, therefore, first to examine what I understand were the motives of Mr. Smith in making his press statements and the effect those statements had on the public; and secondly, to consider why the Council, by comparison, appear to have been unduly reticent.

294. I think that Mr. Smith's prime reason for making so much of his criticism of the Council—in the weeks after 21st March—known to the public through the Press was that he was under the mistaken impression that certain Councillors were attempting to secure his dismissal. Believing this, I suspect, he called to mind the words of Lord Caldecott, viz.

"The integrity of the administration of public affairs is such that publicity may be safely relied upon to secure protection for anyone in the position in which the Town Clerk was said to have been placed".

He believed that all he had done and was attempting to do was in the interests of the ratepayers and good local government. Since the Council, or part of it, seemed to him to be bent on preventing him from doing what he thought right, his reaction was to appeal for the support of the public in order to justify himself. In doing so he seems to me to have put himself utterly in the wrong since the role of Clerk of the Council must be quite incompatible with that of one of its leading critics.

295. I have again sought some explanation for Mr. Smith's recourse to the Press against his Council (or certain members of it) which I feel can have few precedents and which seem to me to be wholly inconsistent with the traditional loyalty expected from a Clerk towards his Council. The most probable explanation would seem to be that in following the course upon which he had embarked on 23rd March, under the mistaken belief that certain Councillors were plotting against him, Mr. Smith regarded himself as justified in making his position clear to the ratepayers through the Press. It is right to add that Mr. Smith claims that he was forced to resort to the Press because he was afforded no chance by the Council to answer criticisms of his administration. Even so, it is, I think, proper to question whether Mr. Smith might not have found a more dignified and possibly a more successful way of dealing with his threatened position, as he saw it, than by engaging in a press campaign which was bound to damage the reputation of the Council and arouse widespread suspicion of the integrity of Councillors in general.

296. The effect on the public of his remarks was to make them recall Lord Justice Salmon's words, and the Clerk's "Warning" to Councillors in December 1964. There is abundant evidence that the result has been to create a general distrust of Councillors' integrity.

297. Why, then did the Council not put its case? I am satisfied that the main reason for their reticence, as several Councillors told me, was that they felt inhibited from making public comment after they received the Clerk's letter of 9th April (see Chapter 17). They feared that if they were to make comments to the Press they might be subjected to actions for defamation. Mr. Smith has told me that he did not intend his letter of 9th April to be construed as a threat; it is, none the less, the fact that it was interpreted as such by many members of the Council. In any event I can well understand the Council's reluctance to engage in a public "slanging match" with their Clerk.

298. I am satisfied that the statements made by the Clerk and others which were reported in the Press played an important part both in putting the Council in a most unfavourable light and in convincing nearly all the Councillors that Mr. Smith could not continue as their Clerk.

(f) Was the Dismissal Improper?

299. The Council have been strongly criticised for dismissing their Clerk while he was absent on sick leave. It has also been said that the grounds for the termination of his appointment have not been explained satisfactorily to the public.

300. On the face of it, it seems quite opposed to the best traditions of English life that a man should not be allowed to answer the charges against him and that he should be condemned in his absence. I can therefore understand how the criticism of the Council's decision to dismiss their Clerk arose.

301. The facts, however, are not as they may have seemed. Attempts at mediation were made by a number of Councillors, even in the last few days, but their, the Vicar's and the Permanent Secretary's efforts were rejected by Mr. Smith. I think I understand why he rejected them; he believed that the Council were already decided that he should be dismissed. However, in my view he was mistaken. I think that all those who offered to mediate were sincerely trying to find an acceptable solution.

302. I cannot accept that Mr. Smith was never given an opportunity to face the Council's criticisms of him. He is a forceful personality and had he thought it would serve a useful purpose I have no doubt that he would have found an opportunity to make detailed answer to the Council.

303. Mr. Smith said quite emphatically that he considered his past actions correct and that he would continue to behave in the same way in future; he could not compromise. I do not think that Mr. Smith was being asked to "compromise" in any generally accepted meaning of that word. His view of his position as Clerk was, to say the least, unusual, and his methods of asserting it were, in my view, unorthodox; what was being asked of him was not to compromise but simply to refrain from acting in a way which many Councillors regarded as being in conflict with his duty to the Council. The Council considered that it was their job to formulate policy and the Clerk's, as their

employee, to execute it without change. It was clear to them that Mr. Smith's view of his job as Clerk was very different from their own. He had acted in such a way as to discredit his Council and they had evidence which led them to believe that he had not carried out their instructions and had withheld from them important information. Unless they could be sure that the same situation could not arise again, they felt that they could not continue to employ him. Mr. Smith made it clear to the Council that he was not prepared to alter his attitude or to make a single conciliatory gesture. It was plain, therefore, to the great majority of the Council that they had no choice but to terminate Mr. Smith's appointment. His presence at the meeting which decided to terminate his appointment would not have altered the decision. In my opinion the only criticism which might be made of the Council's action in dismissing the Clerk in his absence is that it was bound to make them appear unjust.

304. I think it is understandable that members of the public, on the basis of what little was known to them at that time of the true facts of the circumstances which led to and culminated in Mr. Smith's dismissal, should have felt that a detailed explanation of the Council's decision was due to them. However, the Council were in possession of far more of the facts of the matter and I am of the opinion that the grounds which they gave for their decision were entirely adequate. Further, the Clerk is not employed by the rate-payers; he is employed and is answerable to his Council. If differences arise between a Council and one of its employees, which lead either to his resignation or dismissal, I consider that, more often than not, it is desirable that the explanation given to the public should be as brief and uncontentious as possible in the interests of both the employee and the Council. In the present case the explanation given was that the conflict of views between Mr. Smith and the Council was incompatible with the proper conduct of local government and was incapable of solution in any way other than the termination of Mr. Smith's appointment. In my opinion this explanation accurately represented the position, was fair to Mr. Smith, and could scarcely be said to be defamatory.

305. The decision to dismiss Mr. Smith was taken in private. This was in accordance with Standing Orders and was, in my view, the only proper course. An employee would have good grounds for complaint if his employers discussed his conduct in public, and it is for this reason, I understand, that it is the universal practice for Councils' Standing Orders to provide for such discussions to be held in private session.

(g) "*Matters Disclosed in the Course of the Inquiry*".

306. Included in my terms of reference was the direction to comment "on any matters disclosed in the course of the inquiry which seems to him (me) to require consideration in the interests of good local government". I have given this matter a good deal of thought.

307. Although I listened to a number of witnesses describing various aspects of the Council's activities extending over a number of years, I have not considered it my duty to inquire into and comment on any aspects of local government at Bognor Regis other than those which appeared to be relevant to my terms of reference i.e. "To examine the circumstances leading up to

the termination of the appointment of Mr. Paul Smith as Clerk of the Council ; to review the conduct of the Council's affairs in this matter". For example, although I have heard evidence critical of the Council's handling of such matters as the Butlin's negotiations, the letting of sea front properties and the Aldwick Sea Defence Scheme, prior to Mr. Smith's appointment, it would not have been possible for me to form a judgment on any of these matters without an extension of the inquiry far beyond what I conceived to be my terms of reference. I have, nevertheless, considered such matters in so far as I thought they should be investigated as part of the background to the inquiry.

308. I hope I have made it clear that the events described in Part I of this Report had human rather than institutional causes. That is to say, it was not due to any defect or shortcomings in the machinery of local government that the difficulties arose between the Clerk and the Bognor Regis Council. In my opinion it was the conflicting ideas and personalities of Mr. Smith and his Council which became irreconcilable and led to the termination of his appointment. Mr. Smith's view of the duties of a Clerk are not shared by the representative association of Clerks of Urban District Councils ; if his views have other adherents, I think they must be a very small minority of Clerks. His attitude, as I understand it, has been made clear in this Report and since, in my opinion it is highly individual, it does not seem to me to require any further comment in the context of local government as a whole.

309. The only matter upon which I think it may be useful to comment concerns section 76 of the Local Government Act 1933, to which constant references were made in the course of the events described in this Report. While the matters I examined did not indicate to me that section 76 required to be strengthened in the public interest, the protection which Mr. Smith has often stated that the section is meant to give Councillors still seems to leave them very vulnerable to ill-informed gossip. However meticulous a Councillor is in observing the requirements of the section, however hard and honourably he works in the interests of the ratepayers, there will always be some members of the public ready to believe that the Councillor will feather his nest while apparently acting correctly. It seems to me that it would reduce the credence which such people can gain, and render a Councillor less vulnerable were he to be entitled, after having made a full declaration of his interest, to take part in the discussion and vote.

310. Nothing else has emerged in the course of the inquiry which seems to me to require consideration in the interests of good local government. The dispute between the Bognor Regis Council and Mr. Smith has, in my view, been greatly inflated and given the appearance of an issue of national importance due to its largely one-sided presentation in the Press and on Television. It was, in my opinion, no more than an unhappy domestic quarrel, and the sooner it is allowed to be forgotten the better.

J. RAMSAY WILLIS.

22nd October, 1965.

SECTION 76 OF THE LOCAL GOVERNMENT ACT 1933, AS AMENDED BY THE LOCAL GOVERNMENT ACT 1948, THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1953, AND THE LOCAL GOVERNMENT (PECUNIARY INTERESTS) ACT 1964.

Disability of members of authorities for voting on account of interest in contracts, &c.

76.—(1) If a member of a local authority has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the local authority at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter ;

Provided that this section shall not apply to an interest in a contract or other matter which a member may have as a ratepayer or inhabitant of the area, or as an ordinary consumer of gas, electricity or water, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

Section 1(1), Local Government (Pecuniary Interests) Act 1964

[For the purposes of section 76 . . . a member shall not be treated as having a pecuniary interest in any contract or other matter by reason only of any interest—

- (a) of that member, or
- (b) of any company, body or person connected with him as mentioned in subsection (2) of that section,

which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.]

(2) For the purposes of this section a person shall (subject as hereafter in this subsection provided) be treated as having indirectly a pecuniary interest in a contract or other matter, if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration ; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration :

Provided that—

- (i) this subsection shall not apply to membership of, or employment under, any public body ;

Section 1(2), Local Government (Pecuniary Interests) Act 1965

[. . . the expression "public body" shall include, and be deemed always to have included, any body established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, the governing body of any

university, university college, college in a university or college of advanced technology and the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907.]

(ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body.

Section 131(2), Local Government Act 1948 as amended by Section 15, Local Government (Miscellaneous Provisions) Act 1953

[*(2a)* Where a member of a local authority has indirectly a pecuniary interest in a contract or other matter and would not fall to be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body, then, if the total nominal value of those shares does not exceed five hundred pounds or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, so much of subsection (1) of this section as prohibits him from taking part in the consideration or discussion of, and from voting on any question with respect to, the contract or other matter shall not apply to him, without prejudice, however, to the duty of disclosure imposed by the said subsection (1):

Provided that where the share capital of the company or other body is of more than one class, this subsection shall not apply if the total nominal value of all the shares of any one class in which he has a beneficial interest exceeds one hundredth part of the total issued share capital of that class of the company or other body.]

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(4) A general notice given in writing to the clerk of the authority by a member thereof to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

Section 1(3), Local Government (Pecuniary Interests) Act 1964

[In subsection (4) of that section (power to give general notice of certain interests) after the words "in the employment of a specified person" there shall be inserted the words "or that he or his spouse is the tenant of any premises owned by the authority", and after the words "or to that person" there shall be inserted the words "or to those premises".]

(5) The clerk of the authority shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) of this section, and of any notice given under subsection (4) thereof, and the book shall be open at all reasonable hours to the inspection of any member of the local authority.

(6) If any person fails to comply with the provision of subsection (1) of the section, he shall for each offence be liable on summary conviction to a fine not exceeding fifty pounds, unless he proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

Section 1(4), Local Government (Pecuniary Interests) Act 1964

[In subsection (6) of that section (penalties) for the words "a fine not exceeding fifty pounds" there shall be substituted, in relation to any offence committed after the commencement of this Act, the words "a fine not exceeding two hundred pounds".]

(7) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.

(8) The county council, as respects a member of a parish council, and the Minister, as respects a member of any other local authority, may, subject to such conditions as the county council or the Minister, as the case may be, may think fit to impose, remove any disability imposed by this section in any case in which the number of members of the local authority so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the county council or the Minister, as the case may be, that it is in the interests of the inhabitants of the area that the disability should be removed.

Section 1(5), Local Government (Pecuniary Interests) Act 1964

[The power of a county council and of the Minister under subsection (8) of the section to remove any disability imposed by that section shall include power to remove, either indefinitely or for any period, any such disability which would otherwise attach to any member (or in the case of the power of the Minister, any member of any class or description of member) by reason of such interest, and in respect of such matters, as may be specified by the county council or, as the case may be, the Minister.]

(9) A local authority may by standing orders provide for the exclusion of a member of the authority from a meeting of the authority whilst any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration.

Section 131(3), Local Government Act 1948

[(10) In this section, the expression "shares" includes stock and the expression "share capital" shall be construed accordingly.]

Section 1(6), Local Government (Pecuniary Interests) Act 1964

[Nothing in that section shall preclude any person from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to a county council or the Minister for the exercise of the powers conferred by the said subsection (8).]

Section 131(4), Local Government Act 1948

[In the said section 76 . . . references to a local authority shall be construed as including references to a divisional executive constituted under the Education Acts 1944 and 1946, or the National Health Service Act 1946 . . .]